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THE
SPEECHES
OF THE
RIGHT HON. LORD ERSKINE,

AT THE BAR AND IN PARLIAMENT.

WITH
A PREFATORY MEMOIR
BY THE
RIGHT HON. LORD BROUGHAM.

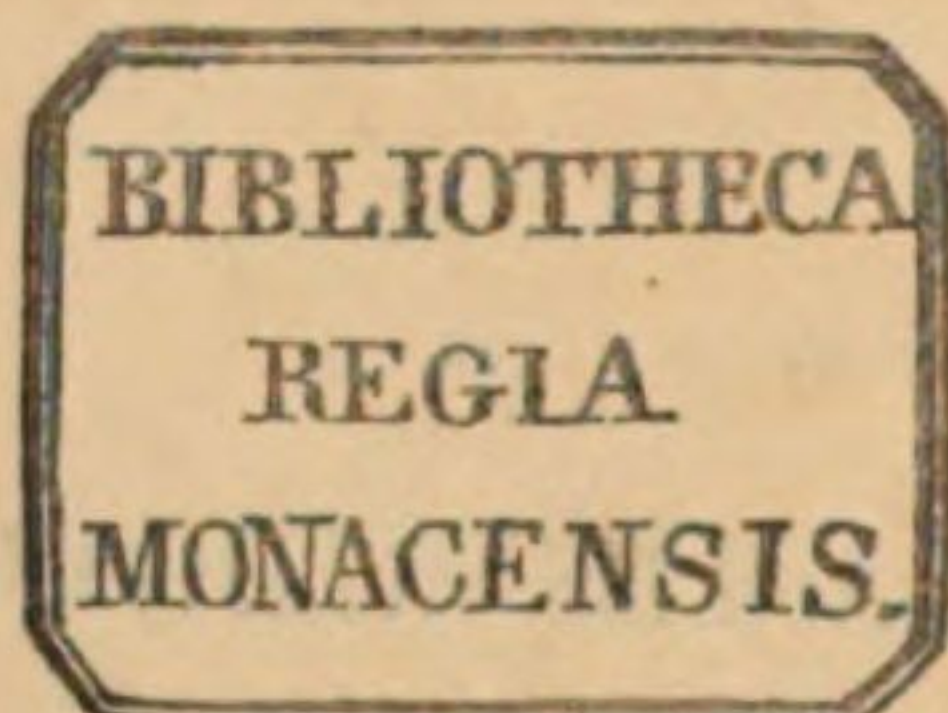
COLLECTED BY
THE LATE JAMES RIDGWAY.

IN FOUR VOLUMES.

VOL. II.

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1847.



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CASE OF THE KING AGAINST JOHN STOCKDALE
—TRIED IN THE COURT OF KING'S BENCH, BEFORE
LORD KENYON AND A SPECIAL JURY AT WEST-
MINSTER, ON THE NINTH OF DECEMBER, A. D.
1789, UPON AN INFORMATION FILED AGAINST HIM
BY THE ATTORNEY GENERAL, FOR A LIBEL ON THE
HOUSE OF COMMONS.

SUBJECT OF THE TRIAL, &c.

THE trial of Mr. John Stockdale, of Piccadilly, is so immediately connected with the well-known Impeachment of Mr. Hastings, the Governor General of India; that very little preface is necessary for the illustration of Mr. Erskine's defence of him.

When the Commons of Great Britain ordered that Impeachment, the Articles were prepared by Mr. Edmund Burke, who had the lead in all the inquiries which led to it, and, instead of being drawn up in the usual dry method of legal accusation, were expanded into great length, and were characterized by that fervid and affecting language, which distinguishes all the writings of that extraordinary person. The Articles so prepared, instead of being confined to the records of the House of Commons, until they were carried up to the Lords for trial, were printed and sold in every shop in the kingdom, without question or obstruction by the Managers of the Impeachment or the House of Commons, and undoubtedly, from the style and manner of their composition, made a very considerable impression against the accused.

To repel the effects of the Articles, thus (according to the

reasoning of Mr. Erskine) prematurely published, the Rev. Mr. Logan, one of the ministers of Leith in Scotland, a person eminent for learning, drew up a Review of the Articles of Impeachment (which, as has been already stated, were then in general circulation) and carried it to Mr. Stockdale, an eminent and respectable bookseller in Piccadilly,—who published it in the usual course of his business. Mr. Logan's Review was composed with great accuracy and judgment, but undoubtedly with strong severity of observation against the accusation of Mr. Hastings: and having an immediate, and very extensive sale, was complained of by Mr. Fox, to the House of Commons, and upon the motion of that great and eminent person, then one of the Managers of the Impeachment—the House unanimously voted an address to the King, praying His Majesty to direct his Attorney General to file an Information against Mr. Stockdale, as the publisher of a libel upon the Commons House of Parliament; which was filed accordingly.

It is not necessary to lengthen this preface, by the passages from Mr. Logan's book, which were selected by the Attorney General in forming the Information, and which gave the greatest offence to the House of Commons; neither is it necessary to print the Information itself, because the principal passages complained of and contained in it, were read by Lord Chief Baron Macdonald, then Attorney General, in his very fair and able address to the Jury, which we have printed as well as his judicious reply and the summing up of Lord Chief Justice Kenyon; because this trial, above any other in print, contains the invaluable principles of a free press, and the important privilege of the Jury, since the passing of the memorable Libel Act. The application of these principles to an acquittal or conviction in this particular instance, is not within our province: but we may state as a fact, that the verdict gave very general satisfaction, and what is a proud consideration for the subjects of this country, under our in-

valuable constitution, neither the highest Court in the kingdom, nor the House of Commons, who were the accusers, had a right to question its authority.

The evidence consisted of nothing but the common proof of publication, and is therefore omitted as unnecessary.

The ATTORNEY GENERAL opened the case as follows :

GENTLEMEN OF THE JURY,

THIS Information, which it has been my duty to file against the Defendant, John Stockdale, comes before you in consequence of an address from the House of Commons. This you may well suppose I do not mention as in any degree to influence the judgment which you are by and by to give upon your oaths ; I state it as a measure which they have taken, thinking it in their wisdom, as every body must think it—to be the fittest to bring before a Jury of the country, an offender against themselves, avoiding thereby what sometimes indeed is unavoidable, but which they wish to avoid, whenever it can be done with propriety—the acting both as judges and accusers ; which they must necessarily have done, had they resorted to their own powers, which are great and extensive, for the purpose of vindicating themselves against insult and contempt, but which, in the present instance, they have wisely forborne to exercise, thinking it better to leave the Defendant to be dealt with by a fair and impartial Jury.

The offence which I impute to him is that of calumniating the House of Commons : not in its ordinary

legislative character, but when acting in its accusatorial capacity, conceiving it to be their duty, on adequate occasions, to investigate the conduct of persons in high stations, and to leave that conduct to be judged of by the proper constitutional tribunal, the Peers in Parliament assembled.

After due investigation, as it is well known to the public, the Commons of Great Britain thought it their duty to submit the conduct of a servant of this country, who had governed one of its most opulent dependencies for many years, to an inquiry before that tribunal. One would have thought that every good subject of this country would have forborne imputing to the House of Commons motives utterly unworthy of them, and of those whom they represent: instead of this, to so great a degree now has the licentiousness of the press arisen, that motives, the most unbecoming that can actuate any individual who may be concerned in the prosecution of public justice, are imputed to the representatives of the people. No credit is given to them for meaning to do justice to their country, but, on the contrary, private, personal, and malicious motives have been imputed to the Commons of Great Britain.

When such an imputation is made upon the very first tribunal that this country knows; namely, the great inquest of the nation, the Commons in Parliament assembled, carrying a subject, who, as they thought, had offended, to the bar of the House of Lords—I am sure you will think this an attack so dangerous to every tribunal, so dangerous to the

whole administration of justice, that if it be well proved you cannot fail to give it your stigma, by a verdict against the Defendant.

Gentlemen, the particular passages which I shall put my finger upon in this libel, it will now be my duty to state. You know very well that it is your duty to consider of the meaning that I have imputed to them by the Information;—if you agree with me in that meaning, you convict; if you disagree with me, of course you acquit.

The rule of your judgment, I apprehend (with submission to his Lordship), will be the ordinary acceptation of the words, and the plain and obvious sense of the several passages;—if there be doubt, or if there be difficulty;—if there be screwing or ingenuity, or unworthy straining, on the part of a public prosecutor, you certainly will pay no attention to that; but, on the contrary, if he who runs may read;—if the meanest capacity must understand the words, in their plain and obvious sense, to be the same as imputed in this Information, in such a case as that, ingenuity on the other side must be laid aside by you, and you will not be over-anxious to give a meaning to words, other than the ordinary and plain one.

In my situation, it does not become me to raise in you more indignation than the words themselves and the plain and simple reading of the libel will do: far be it from me, if it were in my power to do so, to provoke any undue passions or animosity in you, against conduct even such as this. The solemnity of the situation in which I am placed on this occasion,

obliges me to address the intellect both of the Court and Jury, and neither their passions nor their prejudices; for that reason I shall content myself with the few observations I have made, and betake myself merely to the words of the libel; and leaving that with you, I am most confident that if you follow the rule of interpretation which you always do upon such occasions, it cannot possibly happen that you should differ from me, in the construction which I have put upon them.

Gentlemen, this, I should however mention to you, is a libel of a more dangerous nature than the ribaldry that we daily see crowding every one of the prints which appear every morning upon our tables; because it is contained in a work which discovers the author of it to be by no means ignorant of composition, but certainly to be of good understanding, and eminently acquainted with letters. Therefore when calumny of this sort comes so recommended, and addressing itself to the understandings of the most enlightened part of mankind—I mean those who have had the best education—it may sink deep into the minds of those who compose the thinking and the judging part of the community; and, by misleading them, perhaps may be of more real danger than the momentary misleading, or the momentary inflammation, of common minds, by the ordinary publications of the day.

This book is intitled, “A Review of the principal Charges against Warren Hastings, Esquire, late Governor General of Bengal.”

One passage in it is this: “The House of Com-

“mons has now given its final decision with regard to
“the merits and demerits of Mr. Hastings. The
“grand inquest of England have delivered their
“Charges, and preferred their Impeachment; their
“allegations are referred to proof; and from the
“appeal to the collective wisdom and justice of the
“nation in the Supreme Tribunal of the kingdom,
“the question comes to be determined, whether Mr.
“Hastings *be guilty or not guilty?*”

Another is this: “What credit can we give to
“multiplied and accumulated charges, when we find
“that they originate from misrepresentation and
“falsehood?”

Another is: “An impeachment of *error* in *judg-*
“*ment* with regard to the *quantum* of a fine, and for
“an intention that never was executed, characterizes
“a tribunal of inquisition, rather than a Court of
“Parliament.”

In another part it is said: “The other charges are
“so insignificant in themselves, or founded on such
“gross misrepresentations, that they would not affect
“an obscure individual, much less a public character.”

And again: “If success in any degree, attends the
“designs of the accusers of Mr. Hastings, the voice
“of Britain henceforth to her sons, is, Go and serve
“your country; but if you transgress the line of
“official orders, though compelled by necessity, you
“do so at the risk of your fortune, your honour, and
“your life; if you act with *proper prudence* against
“the interests of the empire, and bring calamity and
“disgrace upon your country, you have only to court

“ Opposition and coalesce with your enemies, and you
“ will find a party zealous and devoted to support you ;
“ you may obtain a vote of thanks from the House of
“ Commons for your *services*, and you may *read your*
“ *history in the eyes of the mob*, by the light of bon-
“ fires and illuminations. But if, after exerting all
“ your efforts in the cause of your country, you return,
“ covered with laurels and crowned with success ; if
“ you preserve a loyal attachment to your Sovereign,
“ you may expect the thunders of Parliamentary
“ vengeance ; you will certainly be impeached, and
“ probably be undone.”

Another passage is this : “ The office of calm
“ deliberate justice is to redress grievances as well as
“ to punish offences. It has been affirmed, that the
“ natives of India have been deeply injured ; but has
“ any motion been made to make them compensation
“ for the injuries they have sustained ?—Have the
“ accusers of Mr. Hastings ever proposed to bring
“ back the Rohillas to the country from which they
“ were expelled ? to restore Cheit Sing to the Zemin-
“ dary of Benares, or to return the Nabob of Oude
“ the present which the Governor of Bengal received
“ from him for the benefit of the Company ? Till
“ such measures are adopted, and in the train of
“ negotiation, the world has every reason to conclude,
“ that the impeachment of Mr. Hastings is carried on”
—Now, Gentlemen, I leave you to judge what sort of
motives are imputed to the House of Commons here—
“ From motives of personal animosity, not from re-
“ gard to public justice.”

The general meaning, without specifying it in technical language, which I have thought it my duty to impute to these words, is shortly this:—That the House of Commons, without consideration, without reading, without hearing, have not been ashamed to accuse a man of distinguished situation; and to pervert their accusatorial character from the purposes of deliberate, thoughtful, considerate justice, to immediate, hasty, passionate, vindictive, personal animosity. The work represents, that the better a man conducts himself—that the more deserving he has rendered himself of his country's favour from his past conduct, the more he exposes himself to the vindictive proceedings of Parliament; and that such a man will be impeached and ruined.

In another passage, PERSONAL ANIMOSITY (*the very words are used*) is imputed to the Commons of Great Britain as the motive of their conduct—these are too plain for you, Gentlemen, to differ with me in the interpretation.

I do not choose to waste *your* time, and that of the Court, in so plain a case, with much observation; but hackneyed as it may be, it is my duty, upon every one of these occasions, to remind you, that the liberty of the press consists in its good regulation,—if it be meant that it should be preserved with benefit to the public, it must be from time to time lopped of its unjust excesses, by reasonable and proper verdicts of juries, in fit and clear cases.

The publication having been proved, Mr. Erskine addressed the Jury as follows: first saying,

I admit that the witness has proved that he bought this book at the shop of Mr. Stockdale—Mr. Stockdale himself being in the shop; from a young man who acted as his servant.

GENTLEMEN OF THE JURY,

MR. STOCKDALE, who is brought as a criminal before you for the publication of this book, has, by employing ME as his advocate, reposed what must appear to many an extraordinary degree of confidence; since, although he well knows that I am personally connected in friendship with most of those, whose conduct and opinions are principally arraigned by its author, he nevertheless commits to MY hands his defence and justification.

From a trust apparently so delicate and singular, vanity is but too apt to whisper an application to some fancied merit of one's own; but it is proper, for the honour of the English Bar, that the world should know that such things happen to all of us daily, and of course; and that the Defendant, without any knowledge of me, or any confidence that was personal, was only not afraid to follow up an accidental retainer, from the knowledge he has of the general character of the profession. Happy indeed is it for this country, that whatever interested divisions may characterize *other places*, of which I may have occasion to speak to-day; however the counsels of the highest depart-

ments of the state may be occasionally distracted by personal considerations, they never enter these walls to disturb the administration of justice: whatever may be *our* public principles, or the private habits of *our* lives, they never cast even a shade across the path of our professional duties.—If this be the characteristic even of the bar of an English Court of Justice, what sacred impartiality may not every man expect from its Jurors and its Bench!

As, from the indulgence which the Court was yesterday pleased to give to my indisposition, this Information was not proceeded on when you were attending to try it, it is probable you were not altogether inattentive to what passed at the trial of the other indictment, prosecuted also by the House of Commons; and therefore, without a restatement of the same principles, and a similar quotation of authorities to support them, I need only remind you of the law applicable to this subject, as it was then admitted by the Attorney General, in concession to my propositions, and confirmed by the higher authority of the Court, viz.

First, that every information or indictment must contain such a description of the crime, that the Defendant may know what crime it is which he is called upon to answer.

Secondly, that the Jury may appear to be warranted in their conclusion of Guilty or Not guilty.

And, lastly, that the Court may see such a precise and definite transgression upon the record, as to be able to apply the punishment which judicial discretion may dictate, or which positive law may inflict.

It was admitted also to follow as a mere corollary from these propositions, that where an information charges a writing to be composed or published OF AND CONCERNING THE COMMONS OF GREAT BRITAIN, with an intent to bring that body into scandal and disgrace with the public, the author cannot be brought within the scope of such a charge, unless the Jury, on examination and comparison of the *whole matter* written or published, shall be satisfied that the particular passages charged as criminal, when explained by the context, and considered as part of *one entire work*, were meant and intended by the author to vilify the House of Commons *as a body*, and were written *of and concerning them* IN PARLIAMENT ASSEMBLED.

These principles being settled, we are now to see what the present Information is.

It charges that the Defendant, “unlawfully, wickedly, and maliciously devising, contriving, and intending to asperse, scandalize, and vilify the Commons of Great Britain in Parliament assembled; and most wickedly and audaciously to represent their proceedings as corrupt and unjust, and to make it believed and thought, as if the Commons of Great Britain in Parliament assembled, were a most wicked, tyrannical, base, and corrupt set of persons, and to bring them into disgrace with the public”—the Defendant published—*What?—Not* those latter ends of sentences which the Attorney General has read from his brief, as if they had followed one another in order in this book;—*not* those scraps and tails of passages which are patched together upon this record, and pronounced in one breath, as if they existed

without intermediate matter in the same page, and without context anywhere. — *No* — This is not the accusation, even mutilated as it is: for the Information charges, *that, with intention to vilify the House of Commons*, the Defendant published the whole book, describing it on the record by its title: “ A Review of “ the principal Charges against Warren Hastings, Esq. “ late Governor General of Bengal ;” *in which, amongst other things, the matter particularly selected is to be found.* Your inquiry, therefore, is not confined to, whether the Defendant published *those selected parts of it*; and whether, looking at them as they are distorted by the Information, they carry in fair construction the sense and meaning which the innuendos put upon them; but whether the author of the *entire work* — I say THE AUTHOR, since, if HE could defend himself, THE PUBLISHER unquestionably can, — whether THE AUTHOR wrote the volume which I hold in my hand, as a free, manly, *bonâ fide* disquisition of criminal charges against his fellow-citizen, or whether the long eloquent discussion of them, which fills so many pages, was a mere cloak and cover for the introduction of the supposed scandal imputed *to the selected passages*; the mind of the writer all along being intent on traducing the House of Commons, and not on *fairly* answering their charges against Mr. Hastings?

This, Gentlemen, is the principal matter for your consideration; and therefore, if after you shall have taken the book itself into the chamber which will be provided for you, and shall have read the whole of it with impartial attention; — if, after the performance of this duty, you can return here, and with clear con-

sciences pronounce upon your oaths that the impression made upon you by these pages is, that the author wrote them with the wicked, seditious, and corrupt intentions charged by the Information ;—you have then my full permission to find the Defendant guilty : but if, on the other hand, the general tenour of the composition shall impress you with respect for the author, and point him out to you as a man mistaken perhaps himself, but not seeking to deceive others :—if every line of the work shall present to you an intelligent animated mind, glowing with a Christian compassion towards a fellow man, whom he believed to be innocent, and with a patriot zeal for the liberty of his country, which he considered as wounded through the sides of an oppressed fellow-citizen ;—if *this* shall be the impression on your consciences and understandings, when you are called upon to deliver your verdict ; then hear from me, that you not only work private injustice, but break up the press of England, and surrender her rights and liberties for ever, if you convict the Defendant.

Gentlemen, to enable you to form a true judgment of the meaning of this book, and of the intention of its author, and to expose the miserable juggle that is played off in the Information, by the combination of sentences, which in the work itself have no bearing upon one another—I will first give you the publication as it is charged upon the record and presented by the Attorney General in opening the case for the Crown : and I will then, by reading the interjacent matter, which is studiously kept out of view, convince you of its true interpretation.

The Information, beginning with the first page of

the book, charges as a libel upon the House of Commons, the following sentence: "The House of Commons has now given its final decision with regard to the merits and demerits of Mr. Hastings. The grand inquest of England have delivered their Charges, and preferred their Impeachment; their allegations are referred to proof; and from the appeal to the collective wisdom and justice of the nation in the Supreme Tribunal of the kingdom, the question comes to be determined, whether Mr. Hastings *be guilty or not guilty?*"

It is but fair however to admit, that this first sentence, which the most ingenious malice cannot torture into a criminal construction, is charged by the Information rather as introductory to what is made to follow it, than as libellous in itself; for the Attorney General from this introductory passage in the first page, goes on at a leap to page *thirteenth*, and reads, almost without a stop, as if it immediately followed the other—this sentence: "What credit can we give to multiplied and accumulated charges, when we find that they originate from misrepresentation and falsehood?"

From these two passages thus standing together, *without the intervenient matter which occupies thirteen pages*, one would imagine, that instead of investigating the probability or improbability of the guilt imputed to Mr. Hastings;—instead of carefully examining the Charges of the Commons, and the defence of them which had been delivered before them, or which was preparing for the Lords; the author had immediately, and in a moment after stating the mere fact of the Impeachment, decided that the act of the Commons originated from misrepresentation and falsehood.

Gentlemen, in the same manner a veil is cast over all that is written *in the next seven pages* ; for knowing that the context would help to the true construction, not only of the passages charged before, but of those in the sequel of this Information ; the Attorney General, aware that it would convince every man who read it that there was no intention in the author to calumniate the House of Commons, passes over, by another leap, to *page twenty* ; and in the same manner, without drawing his breath, and as if it directly followed the two former sentences *in the first and thirteenth pages*, reads from page twentieth—"An impeachment of error in judgment with regard to the quantum of a fine, and for an intention that never was executed, and never known to the offending party, characterizes a tribunal of inquisition rather than a Court of Parliament."

From this passage, by another vault, he leaps over *one-and-thirty pages more, to page fifty-one* ; where he reads the following sentence, which he mainly relies on, and upon which I shall by and by trouble you with some observations : "Thirteen of them passed in the House of Commons, not only without investigation, but without being read ; and the votes were given without inquiry, argument, or conviction. A majority had determined to impeach ; opposite parties met each other, and '*jostled in the dark,*' to perplex the political drama, and bring the hero to a tragic catastrophe."

From thence, deriving new vigour from every exertion, he makes his last grand stride *over forty-four pages more*, almost to the end of the book, charging a sentence *in the ninety-fifth page*.

So that out of a volume of *one hundred and ten pages*, the Defendant is only charged with a few scattered fragments of sentences, picked out of *three or four*.—Out of a work, consisting of about *two thousand five hundred and thirty lines*, of manly, spirited eloquence, only *forty or fifty lines* are culled from different parts of it, and artfully put together, so as to rear up a libel, out of a false context, by a supposed connexion of sentences with one another, which are not only entirely independent, but which, when compared with their antecedents, bear a totally different construction.—In this manner, the greatest works upon government, the most excellent books of science, the sacred Scriptures themselves, might be distorted into libels; by forsaking the general context, and hanging a meaning upon selected parts:—thus, as in the text put by Algernon Sidney, “The fool hath said in his heart, There is no God;” the Attorney General, on the principle of the present proceeding against this pamphlet, might indict the publisher of the Bible for blasphemously denying the existence of Heaven, in printing “*There is no God.*”—These words alone, without the context, would be selected by the Information, and the Bible, like this book, would be *under-scored* to meet it; nor could the Defendant, in such a case, have any possible defence, unless the Jury were permitted to see, BY THE BOOK ITSELF, that the verse, instead of denying the existence of the Divinity, only imputed that imagination to a fool.

Gentlemen, having now gone through the Attorney General’s reading, the book shall presently come for-

ward and speak for itself.—But before I can venture to lay it before you, it is proper to call your attention to how matters stood at the time of its publication : without which the author's meaning and intention cannot possibly be understood.

The Commons of Great Britain, in Parliament assembled, had accused Mr. Hastings, as Governor General of Bengal, of high crimes and misdemeanors ; and their jurisdiction, for that high purpose of national justice, was unquestionably competent ; but it is proper you should know the nature of this inquisitorial capacity.—The Commons, in voting an impeachment, may be compared to a Grand Jury, finding a bill of indictment for the Crown : neither the one nor the other can be supposed to proceed, but upon the matter which is brought before them ; neither of them can find guilt without accusation, nor the truth of accusation without evidence.—When therefore we speak of the *accuser* or *accusers*, of a person indicted for any crime, although the Grand Jury are the prosecutors *in form*, by giving effect to the accusation ; yet in common parlance we do not consider *them* as the responsible authors of the prosecution. If I were to write of a most wicked indictment, found against an innocent man, which was preparing for trial, nobody who read it would conceive that I meant to stigmatize the Grand Jury that found the bill ; but it would be inquired immediately, who was the PROSECUTOR, and who were the WITNESSES on the back of it ? In the same manner I mean to contend, that if this book is read with only common attention, the whole scope of it will be dis-

covered to be this : that, in the opinion of the author, Mr. Hastings had been accused of mal-administration in India, from the heat and spleen of political divisions in Parliament, and not from any zeal for national honour or justice : that the impeachment did not originate from Government, but from a faction banded against it, which, by misrepresentation and violence, had fastened it on an unwilling House of Commons : that, prepossessed with this sentiment (which, however unfounded, makes no part of the present business, since the publisher is not called before you for defaming individual members of the Commons, but for a contempt of the Commons as a body), the author pursues the Charges, article by article ;—enters into a warm and animated vindication of Mr. Hastings, by regular answers to each of them ; and that, as far as the mind and soul of a man can be visible, I might almost say, embodied in his writings, his intention throughout the whole volume appears to have been to charge with injustice the *private accusers* of Mr. Hastings, and not the House of Commons as a body : which undoubtedly rather reluctantly gave way to, than heartily adopted, the Impeachment. This will be found to be the palpable scope of the book ; and no man who can read English, and who, at the same time, will have the candour and common sense to take up his impressions from what is written in it, instead of bringing his own along with him to the reading of it, can possibly understand it otherwise.

But it may be said, that admitting this to be the scope and design of the author, what right had he to

canvass the merits of an accusation upon the records of the Commons; more especially while it was in the course of legal procedure? This, I confess, might have been a serious question; but the Commons, *as Prosecutors of this Information*, seem to have waived, or forfeited their right to ask it. Before they sent the Attorney General into this place, to punish the publication of *Answers* to their Charges, they should have recollected that their own want of circumspection in the maintenance of their privileges, and in the protection of persons accused before them, had given to the public *the Charges themselves*, which should have been confined to *their own Journals*.—The course and practice of Parliament might warrant the printing of them for the use of their own members; but there the publication should have stopped, and all further progress been resisted by authority. If they were resolved to consider *Answers to their Charges* as a contempt of their privileges, and to punish the publication of them by such severe prosecutions, it would have well become them to have begun first with those printers who, by publishing *the Charges themselves* throughout the whole kingdom, or rather throughout the civilized world, were anticipating the passions and judgments of the public against a subject of England upon his trial, so as to make the publication of *Answers* to them not merely a privilege, but a debt and duty to humanity and justice. The Commons of Great Britain claimed and exercised the privilege of questioning the innocence of Mr. Hastings by their impeachment; but as, however questioned, it was still to be presumed

and protected, until guilt was established by a judgment, *He* whom they had accused had an equal claim upon their justice, to guard him from prejudice and misrepresentation until the hour of trial.

Had the Commons, therefore, by the exercise of their high, necessary, and legal privileges, kept the public aloof from all canvass of their proceedings, by an early punishment of printers, who, without reserve or secrecy, had sent out *the Charges* into the world from a thousand presses in every form of publication, they would have then stood upon ground to-day, from whence no argument of policy or justice could have removed them; because nothing can be more incompatible with either, than appeals to the many upon subjects of judicature, which by common consent a few are appointed to determine, and which must be determined by facts and principles, which the multitude have neither leisure nor knowledge to investigate.—But then let it be remembered, that it is for those who have the authority to accuse and punish, to set the example of, and to enforce this reserve, which is so necessary for the ends of justice. Courts of law therefore in England never endure the publication of *their* records; and a prosecutor of an indictment would be attached for such a publication; and, upon the same principle, a defendant would be punished for anticipating the justice of his country, by the publication of his defence, the public being no party to it, until the tribunal appointed for its determination be open for its decision.

Gentlemen, you have a right to take judicial notice of these matters, without the proof of them by wit-

nesses ; for Jurors may not only, without evidence, found their verdicts on facts that are notorious, but upon what they know privately themselves, after revealing it upon oath to one another ; and therefore you are always to remember, that this book was written when the *Charges* against Mr. Hastings, *to which it is an answer*, were, *to the knowledge of the Commons* (for we cannot presume our watchmen to have been asleep), publicly hawked about in every pamphlet, magazine, and newspaper in the kingdom.—You well know with what a curious appetite these Charges were devoured by the whole public, interesting as they were, not only from their importance, but from the merit of their composition ; certainly not so intended by the honourable and excellent composer* to oppress the accused, but because the commonest subjects swell into eloquence under the touch of his sublime genius. Thus by the remissness of the Commons, *who are now the Prosecutors of this Information*, a subject of England, who was not even charged with contumacious resistance to authority, much less a proclaimed outlaw, and therefore fully entitled to every security which the customs and statutes of the kingdom hold out for the protection of British liberty, saw himself pierced with the arrows of thousands and ten thousands of libels.

Gentlemen, ere I venture to lay the book before you, it must be yet further remembered (for the fact is equally notorious), that under these inauspicious circumstances, the trial of Mr. Hastings at the bar of the Lords had actually commenced long before its publication.

* Edmund Burke.

There the most august and striking spectacle was daily exhibited, which the world ever witnessed. A vast stage of justice was erected, awful from its high authority, splendid from its illustrious dignity, venerable from the learning and wisdom of its Judges, captivating and affecting from the mighty concourse of all ranks and conditions which daily flocked into it, as into a theatre of pleasure;* there, when the whole public mind was at once awed and softened to the impression of every human affection, there appeared, day after day, one after another, men of the most powerful and exalted talents, eclipsing by their accusing eloquence the most boasted harangues of antiquity;—rousing the pride of national resentment by the boldest invectives against broken faith and violated treaties, and shaking the bosom with alternate pity and horror by the most glowing pictures of insulted nature and humanity;—ever animated and energetic, from the love of fame, which is the inherent passion of genius;—firm and indefatigable, from a strong prepossession of the justice of their cause.

Gentlemen, when the author sat down to write the book now before you, all this terrible, unceasing, exhaustless artillery of warm zeal, matchless vigour of understanding, consuming and devouring eloquence, united with the highest dignity, was daily, and without prospect of conclusion, pouring forth upon one private unprotected man, who was bound to hear it, in the face of the whole people of England, with reverential

* The Impeachment was carried on in the great Hall of Westminster.

submission and silence.—I do not complain of this as I did of the publication of the Charges, because it was what the law allowed and sanctioned in the course of a public trial; but when it is remembered that we are not angels, but weak fallible men, and that even the noble Judges of that high tribunal are clothed beneath their ermines with the common infirmities of man's nature, it will bring us all to a proper temper for considering the book itself, which will in a few moments be laid before you. But first, let me once more remind you, that it was under all these circumstances, and amidst the blaze of passion and prejudice, which the scene I have been endeavouring faintly to describe to you might be supposed likely to produce, that the author, whose name I will now give to you, sat down to compose the book which is prosecuted to-day as a libel.

The history of it is very short and natural.

The Rev. Mr. Logan, Minister of the Gospel at Leith, in Scotland, a clergyman of the purest morals, and, as you will see by and by, of very superior talents, well acquainted with the human character, and knowing the difficulty of bringing back public opinion after it is settled on any subject, took a warm, unbought, unsolicited interest in the situation of Mr. Hastings, and determined, if possible, to arrest and suspend the public judgment concerning him.—He felt for the situation of a fellow-citizen, exposed to a trial which, whether right or wrong, is undoubtedly a severe one;—a trial, certainly not confined to a few criminal acts like those we are accustomed to, but comprehending

the transactions of a whole life, and the complicated policies of numerous and distant nations;—a trial, which had neither visible limits to its duration, bounds to its expense, nor circumscribed compass for the grasp of memory or understanding;—a trial, which had therefore broken loose from the common forms of decision, and had become the universal topic of discussion in the world, superseding not only every other grave pursuit, but every fashionable dissipation.

Gentlemen, the question you have therefore to try upon all this matter is extremely simple.—It is neither more nor less than this.—At a time when the Charges against Mr. Hastings were, by the implied consent of the Commons, in every hand and on every table;—when by their Managers, the lightning of eloquence was incessantly consuming him, and flashing in the eyes of the public;—when every man was with perfect impunity saying, and writing, and publishing just what he pleased of the supposed plunderer and devastator of nations; would it have been criminal *in Mr. Hastings himself* to have reminded the public that he was a native of this free land, entitled to the common protection of her justice, and that he had a defence in his turn to offer to them, the outlines of which he implored them in the mean time to receive, as an antidote to the unlimited and unpunished poison in circulation against him?—THIS is, without colour or exaggeration, the true question you are to decide; because I assert, without the hazard of contradiction, that if *Mr. Hastings himself* could have stood justified or excused in your eyes for publishing this volume in his

own defence, the *author*, if he wrote it *bond fide*, to defend him, must stand equally excused and justified ; and if the author be justified, the publisher cannot be criminal, unless you had evidence that it was published by him, with a different spirit and intention from those in which it was written.—The question therefore is correctly what I just now stated it to be : Could *Mr. Hastings* have been condemned to infamy for writing this book ?

Gentlemen, I tremble with indignation, to be driven to put such a question in England.—Shall it be endured, that a subject of this country (instead of being arraigned and tried for some single act in her ordinary courts, where the accusation, as soon at least as it is made public, is followed within a few hours by the decision) may be impeached by the Commons for the transactions of twenty years,—that the accusation shall spread as wide as the region of letters,—that the accused shall stand, day after day, and year after year, as a spectacle before the public, which shall be kept in a perpetual state of inflammation against him ; yet that *he* shall not, without the severest penalties, be permitted to submit any thing to the judgment of mankind in his defence ? If this be law (which it is for you to-day to decide), such a man has NO TRIAL ; this great hall, built by our fathers for English justice, is no longer a court, but an altar ;—and an Englishman, instead of being judged in it by GOD AND HIS COUNTRY, IS A VICTIM AND A SACRIFICE.

You will carefully remember, that I am not presuming to question either the right or the duty of the

Commons of Great Britain to impeach ; neither am I arraigning the propriety of their selecting, as they have done, the most extraordinary persons for ability which the age has produced, to manage their Impeachment.—Much less am I censuring the Managers themselves, charged with the conduct of it before the Lords, who were undoubtedly bound, by their duty to the House, and to the public, to expatiate upon the crimes of the person whom they had accused.—None of these points are questioned by me, nor are in this place questionable. I only desire to have it decided, whether, if the Commons, when national expediency happens to call in their judgment for an impeachment, shall, *instead of keeping it on their own records, and carrying it with due solemnity to the Peers for trial*, permit it without censure and punishment to be sold like a common newspaper in the shop of my Client, so crowded with their own members, that no plain man, without privilege of Parliament, can hope even for a sight of the fire in a winter's day ;—every man buying it,—reading it,—and commenting upon it :—the gentleman himself who is the object of it, or his friend in his absence, may not, without stepping beyond the bounds of English freedom, put a copy of what is thus published into his pocket, and send back to the very same shop for publication a *bonâ fide*, rational, able answer to it, in order that the bane and antidote may circulate together, and the public be kept straight till the day of decision.—If you think, Gentlemen, that this common duty of self preservation, in the accused himself, which nature writes as a law upon the hearts of even savages and

brutes, is nevertheless too high a privilege to be enjoyed by an impeached and suffering Englishman ;—or if you think it beyond the offices of humanity and justice, when brought home to the hand of a brother or a friend, you will say so by your verdict of GUILTY—the decision will then be *yours* ; and the consolation *mine*, that I laboured to avert it.—A very small part of the misery which will follow from it, is likely to light upon *me* ;—the rest will be divided amongst *yourselves and your children*.

Gentlemen, I observe plainly, and with infinite satisfaction, that you are shocked and offended at my even supposing it possible you should pronounce such a detestable judgment ; and that you only require of me to make out to your satisfaction (*as I promised*) that the real scope and object of this book is a *bonâ fide* defence of Mr. Hastings, *and not a cloak and cover for scandal on the House of Commons*.—I engage to do this, and I engage for nothing more.—I shall make an open manly defence ; I mean to torture no expressions from their natural constructions ; to dispute no innuendos on the record, should any of them have a fair application ; nor to conceal from your notice any unguarded intemperate expressions, which may perhaps be found to chequer the vigorous and animated career of the work.—Such a conduct, might, by accident, shelter the Defendant ; but it would be the surrender of the very principle on which alone the liberty of the English press can stand ; and I shall never defend any man from a temporary imprisonment, by the permanent loss of my own liberty, and the ruin of my

country.—I mean therefore to submit to you, that though you should find a few lines in page thirteen, or twenty-one; a few more in page fifty-one, and some others in other places; containing expressions bearing on the House of Commons, even as a body, which, if written as independent paragraphs by themselves, would be indefensible libels, yet that you have a right to pass them over in judgment, provided the substance clearly appears to be a *bonâ fide* conclusion, arising from the honest investigation of a subject which it was lawful to investigate, and the questionable expressions, the visible effusions of a zealous temper, engaged in an honourable and legal pursuit. After this preparation, I am not afraid to lay the book in its genuine state before you.

The pamphlet begins thus: “The House of Commons has now given its final decision with regard to the merits and demerits of Mr. Hastings. The grand inquest of England have delivered their Charges, and preferred their Impeachment; their allegations are referred to proof; and from the appeal to the collective wisdom and justice of the nation in the supreme tribunal of the kingdom, the question comes to be determined, whether Mr. Hastings *be guilty or not guilty?*”

Now if, immediately after what I have just read to you (which is the first part charged by the Information), the author had said, “Will accusations, built on such a baseless fabric, prepossess the public in favour of the Impeachment? What credit can we give to multiplied and accumulated Charges, when

“ we find that they originate from misrepresentation
“ and falsehood ?” every man would have been justified in pronouncing that he was attacking the House of Commons, because the groundless accusations noticed in the second sentence, could have no reference but to the House itself mentioned by name in the first and only sentence which preceded it.

But, Gentlemen, to your astonishment, I will now read *what intervenes between these two passages* ; from which you will see, beyond a possibility of doubt, that the author never meant to calumniate the House of Commons, but to say that the accusation of Mr. Hastings before the *whole* House grew out of a *Committee of Secrecy* established some years before, and was afterwards brought forward by the spleen of private enemies, and a faction in the Government. This will appear, not only from the grammatical construction of the words, but from what is better than words,—from the meaning which a person writing as a friend of Mr. Hastings must be supposed to have intended to convey. Why should such a friend attack the House of Commons ? Will any man gravely tell me that the House of Commons, *as a body*, ever wished to impeach Mr. Hastings ? Do we not all know that they constantly hung back from it, and hardly knew where they were, or what to do, when they found themselves entangled with it ? My learned friend the Attorney General is a member of this assembly ; perhaps he may tell you by and by what he thought of it, and whether he ever marked any disposition in the majority of the Commons hostile to Mr.

Hastings. But why should I distress my friend by the question?—the fact is sufficiently notorious; and what I am going to read from the book itself (which is left out in the Information), is too plain for controversy.

“ Whatever may be the event of the Impeachment,
“ the proper exercise of such power is a valuable privi-
“ lege of the British constitution, a formidable guar-
“ dian of the public liberty, and the dignity of the
“ nation. *The only danger is, that from the influence*
“ *of faction, and the awe which is annexed to great*
“ *names, they may be prompted to determine, before*
“ *they inquire, and to pronounce judgment without*
“ *examination.*”

Here is the clue to the whole pamphlet.—The author trusts to and respects the House of Commons, but is afraid their mature and just consideration may be disturbed by *faction*. Now, does he mean Government, by *faction*?—Does he mean the majority of the Commons, by *faction*?—Will the House, which is the Prosecutor here, sanction that application of the phrase;—or will the Attorney General admit the majority to be the true innuendo of *faction*?—I wish he would;—I should then have gained something at least by this extraordinary debate; but I have no expectation of the sort; such a concession would be too great a sacrifice to any prosecution, at a time when every thing is considered as *faction* that disturbs the repose of the Minister in Parliament. But, indeed, Gentlemen, some things are too plain for argument.—The author certainly means *my* friends, who, whatever

qualifications may belong to them, must be contented with the appellation of *faction*, while they oppose the Minister in the House of Commons;—but the House, having given this meaning to the phrase of *faction* for its own purposes, cannot in decency change the interpretation, in order to convict my Client.—I take that to be beyond the privilege of Parliament.

The same bearing upon individual members of the Commons, *and not on the Commons as a body*, is obvious throughout. Thus, after saying, in page nine, that the East India Company had thanked Mr. Hastings for his meritorious services (which is unquestionably true), he adds, “that mankind would abide
“by their deliberate decision, rather than by the in-
“temperate assertion of *a Committee*.”

This he writes after the Impeachment was found by the Commons at large; but he takes no account of their proceedings; imputing the whole to the original Committee, *i. e. the Committee of Secrecy*; so called, I suppose, from their being the authors of twenty volumes in folio, which will remain a secret to all posterity, as nobody will ever read them.—The same construction is equally plain from what immediately follows: “The Report of the *Committee of Secrecy*
“also states, that the happiness of the native inhabit-
“ants of India has been deeply affected, their confi-
“dence in English faith and lenity shaken and im-
“paired, and the character of this nation wantonly
“and wickedly degraded.”

Here again you are grossly misled by the omission of near *twenty-one pages*—for the author, though he is

here speaking of this Committee *by name*, which brought forward the Charges to the notice of the House, and which he continues to do onward to the next select paragraph; yet, by arbitrarily sinking the whole context, he is taken to be speaking of the House as a *body*, when, in the passage next charged by the Information, he reproaches the *accusers* of Mr. Hastings; although, so far is he from considering them as the House of Commons, that in the very same page he speaks of the Articles as the Charges, not even of the Committee, but of Mr. Burke alone, the most active and intelligent member of that body, having been circulated in India by a relation of that gentleman:—"The Charges of *Mr. Burke* have been carried "to Calcutta, and carefully circulated in India."

Now, if we were considering these passages of the work as calumniating a body of gentlemen, many of whom I must be supposed highly to respect, or as reflecting upon my worthy friend whose name I have mentioned, it would give rise to a totally different inquiry, which it is neither my duty nor yours to agitate; but surely, the more that consideration obtrudes itself upon us, the more clearly it demonstrates that the author's whole direction was against the individual accusers of Mr. Hastings, and not against the House of Commons, which merely trusted to the matter they had collected.

Although, from a caution which my situation dictates as representing another, I have thought it my duty thus to point out to you the real intention of the author, as it appears by the fair construction of the

work, yet I protest, that in my own apprehension it is very immaterial, whether he speaks of the *Committee* or of the *House*, provided you shall think the whole volume a *bonâ fide* defence of Mr. Hastings.—This is the great point I am, by all my observations, endeavouring to establish, and which I think no man who reads the following short passages can doubt. Very intelligent persons have indeed considered them, if founded in facts, to render every other amplification unnecessary. The first of them is as follows:—" It
" was known, at that time, that Mr. Hastings had not
" only descended from a public to a private station, but
" that he was persecuted with accusations and im-
" peachments. But none of these *suffering millions*
" have sent their complaints to this country: not a
" sigh nor a groan has been wafted from India to
" Britain. On the contrary, testimonies the most
" honourable to the character and merit of Mr.
" Hastings, have been transmitted by those very
" princes whom he has been supposed to have loaded
" with the deepest injuries."

Here, Gentlemen, we must be permitted to pause together a little; for in examining whether these pages were written as an honest answer to the Charges of the Commons, or as a prostituted defence of a notorious criminal, whom the writer believed to be guilty, *truth becomes material at every step*; for if in *any instance* he be detected of a *wilful* misrepresentation, he is no longer an object of your attention.

Will the Attorney General proceed then to detect the hypocrisy of our author, by giving us some detail

of the proofs by which these personal enormities have been established, and which the writer must be supposed to have been acquainted with? I ask this as the defender of Mr. *Stockdale*, not of Mr. Hastings, with whom I have no concern. I am sorry indeed to be so often obliged to repeat this protest; but I really feel myself embarrassed with those repeated coincidences of defence which thicken on me as I advance, and which were, no doubt, overlooked by the Commons when they directed this interlocutory inquiry into his conduct.—I ask then, *as Counsel for Mr. Stockdale*, whether, when a great state criminal is brought for justice at an immense expense to the public, accused of the most oppressive cruelties, and charged with the robbery of princes and the destruction of nations,—it is not open to any one to ask, Who are his accusers? What are the sources and the authorities of these shocking complaints?—Where are the ambassadors or memorials of those princes whose revenues he has plundered?—Where are the witnesses for those unhappy men in whose persons the rights of humanity have been violated?—How deeply buried is the blood of the innocent, that it does not rise up in retributive judgment to confound the guilty! These surely are questions, which, when a fellow-citizen is upon a long, painful, and expensive trial, humanity has a right to propose; which the plain sense of the most unlettered man may be expected to dictate, and which all history must provoke from the more enlightened. When CicerO impeached VERRES before the great tribunal of Rome of similar cruelties

and depredations in *her* provinces, the Roman people were not left to such inquiries.—ALL SICILY surrounded the Forum, demanding justice upon her plunderer and spoiler, with tears and imprecations.—It was not by the eloquence of the *orator*, but by the cries and tears of the miserable, that Cicero prevailed in that illustrious cause.—VERRES fled from the oaths of his accusers and their witnesses, and not from the voice of TULLY. To preserve the fame of his eloquence, he composed his five celebrated speeches, but they were never delivered against the criminal, because he had fled from the city, appalled with the sight of the persecuted and the oppressed. It may be said, that the cases of Sicily and India are widely different; perhaps they may be;—whether they are or not, is foreign to my purpose.—I am not bound to deny the possibility of answers to such questions; I am only vindicating *the right to ask them*.

Gentlemen, the author in the other passage which I marked out to your attention goes on thus:—"Sir
" John Macpherson, and Lord Cornwallis, his suc-
" cessor in office, have given the same voluntary tribute
" of approbation to his measures as Governor General
" of India. A letter from the former, dated the 10th
" of August 1786, gives the following account of our
" dominions in Asia: ' The native inhabitants of this
" ' kingdom are the happiest and best protected sub-
" ' jects in India: our native allies and tributaries
" ' confide in our protection; the country powers are
" ' aspiring to the friendship of the English: and
" ' from the King of Tidore, towards New Guinea, to

“ ‘ Timur Shaw, on the banks of the Indus, there is
“ ‘ not a state that has not *lately* given us proofs of
“ ‘ confidence and respect.’ ”

Still pursuing the same test of sincerity, let us examine this defensive allegation.

Will the Attorney General say that he does not believe such a letter from Lord Cornwallis ever existed? No:—for he knows that it is as authentic as any document from India upon the table of the House of Commons.—What then is the letter? The native inhabitants of this kingdom, says Lord Cornwallis (writing from the very spot), are the happiest and best protected subjects in India, &c. &c. &c. The inhabitants of *this kingdom!*—*Of what kingdom?*—Of the very kingdom which Mr. Hastings had just returned from governing for thirteen years, and for the mis-government and desolation of which, he stands every day as a criminal, or rather as a spectacle, before us. This is matter for serious reflection; and fully entitles the author to put the question, which immediately follows:
“ Does this authentic account of the administration of
“ Mr. Hastings, and of the state of India, correspond
“ with the gloomy picture of despotism and despair
“ drawn by *the Committee of Secrecy?* ”

Had that picture been even drawn by the House of Commons itself, he would have been fully justified in asking this question; but you observe it has no bearing on it;—the last words not only entirely destroy that interpretation, but also the meaning of the very next passage, which is selected by the Information as criminal, viz. “ What credit can we give to multi-

“plied and accumulated Charges, when we find that
“they originate from misrepresentation and false-
“hood?”

This passage, which is charged as a libel on the Commons, when thus compared with its immediate antecedent, can bear but one construction. It is impossible to contend that it charges misrepresentation on the House that found the Impeachment, but upon the *Committee of Secrecy* just before adverted to, who were supposed to have selected the matter, and brought it before the whole House for judgment.

I do not mean, as I have often told you, to vindicate any calumny on that honourable Committee, or upon any individual of it, any more than upon the Commons at large;—BUT THE DEFENDANT IS NOT CHARGED BY THIS INFORMATION WITH ANY SUCH OFFENCES.

Let me here pause once more to ask you, whether the book in its genuine state, as far as we have advanced in it, makes the same impression on your minds now, as when it was first read to you in detached passages; and whether, if I were to tear off the first part of it which I hold in my hand, and give it to you as an entire work, the first and last passages which have been selected as libels on the Commons, would now appear to be so, when blended with the interjacent parts. I do not ask your answer.—I shall have it in your verdict. The question is only put to direct your attention in pursuing the remainder of the volume to this main point,—IS IT AN HONEST SERIOUS DEFENCE?—For this purpose, and as an example for all others, I will read the author's entire answer to the first Article

of Charge concerning Cheit Sing, the Zemindar of Benares, and leave it to your impartial judgments to determine, whether it be a mere cloak and cover for the slander imputed by the Information to the concluding sentence of it, which is the only part attacked; or whether, on the contrary, that conclusion itself, when embodied with what goes before it, does not stand explained and justified?

“The first Article of Impeachment,” continues our author, “is concerning Cheit Sing, the Zemindar of Benares. Bulwant Sing, the father of this Rajah, was merely an *Aumil*, or farmer and collector of the revenues for Sujah ul Dowlah, Nabob of Oude, and Vizir of the Mogul empire. When, on the decease of his father, Cheit Sing was confirmed in the office of collector for the Vizir, he paid 200,000 pounds as a gift or nuzzeranah, and an additional rent of 30,000 pounds per annum.

“As the father was no more than an *Aumil*, the son succeeded only to his rights and pretensions. But by a sunnud granted to him by the Nabob Sujah Dowlah in September, 1773, through the influence of Mr. Hastings, he acquired a legal title to property in the land, and was raised from the office of *Aumil* to the rank of Zemindar. About four years after the death of Bulwant Sing, the Governor General and Council of Bengal obtained the sovereignty paramount of the province of Benares. On the transfer of this sovereignty the Governor and Council proposed a new grant to Cheit Sing, confirming his former privileges, and conferring upon

“ him the addition of the sovereign rights of the Mint,
“ and the powers of criminal justice with regard to
“ life and death. He was then recognised by the
“ Company as one of their Zemindars; a tributary
“ subject, or feudatory vassal, of the British empire in
“ Indostan. The feudal system, which was formerly
“ supposed to be peculiar to our Gothic ancestors, has
“ always prevailed in the East. In every description
“ of that form of government, notwithstanding acci-
“ dental variations, there are two associations ex-
“ pressed or understood; one for internal security, the
“ other for external defence. The King or Nabob
“ confers protection on the feudatory baron as tributary
“ prince, on condition of an annual revenue in the time
“ of peace, and of military service, partly commutable
“ for money, in the time of war. The feudal incidents
“ in the middle ages in Europe, the fine paid to the
“ superior on *marriage, wardship, relief, &c.* correspond
“ to the annual tribute in Asia. Military service in
“ war, and extraordinary aids in the event of extra-
“ ordinary emergencies, were common to both.*

* “ Notwithstanding this analogy, the powers and privileges of
“ a Zemindar have never been so well ascertained and defined as
“ those of a baron in the feudal ages. Though the office has
“ usually descended to the posterity of the Zemindar, under the
“ ceremony of fine and investiture, a material decrease in the cul-
“ tivation, or decline in the population of the district, has sometimes
“ been considered as a ground to dispossess him. When Zemindars
“ have failed in their engagements to the state, though not to the
“ extent to justify expulsion, supervisors have been often sent into
“ the Zemindaries, who have farmed out the lands, and exercised
“ authority under the Duannee laws, independent of the Zemindar.

“ When the Governor-General of Bengal, in 1778,
“ made an extraordinary demand on the Zemindar of
“ Benares, for five lacks of rupees, the British empire,
“ in that part of the world, was surrounded with
“ enemies which threatened its destruction. In 1779,
“ a general confederacy was formed among the great
“ powers of Indostan for the expulsion of the English
“ from their Asiatic dominions. At this crisis the
“ expectation of a French armament augmented the
“ general calamities of the country. Mr. Hastings is
“ charged by the Committee with making his first
“ demand under the false pretence that hostilities had
“ commenced with France. Such an insidious attempt
“ to pervert a meritorious action into a crime is new—
“ even in the history of impeachments. On the 7th
“ of July, 1778, Mr. Hastings received private intelli-
“ gence from an English merchant at Cairo, that war
“ had been declared by Great Britain on the 23rd of
“ March, and by France on the 30th of April. Upon

“ These circumstances strongly mark their *dependence* on the Nabob.
“ About a year after the departure of Mr. Hastings from India, the
“ question concerning the rights of Zemindars was agitated at great
“ length in Calcutta; and after the fullest and most accurate inves-
“ tigation, the Governor General and Council gave it as their deli-
“ berate opinion to the Court of Directors, that the property of the
“ soil is not in the Zemindar, but in the government; and that a
“ Zemindar is merely an officer of government appointed to collect
“ its revenues. Cheit Sing understood himself to stand in this predi-
“ cament. ‘I am,’ said he on various occasions, ‘the servant of
“ ‘the Circar (government), and ready to obey your orders.’ The
“ name and office of Zemindar is not of Hindoo, but Mogul insti-
“ tution.”

“ this intelligence, considered as authentic, it was de-
“ termined to attack all the French settlements in
“ India. The information was afterwards found to be
“ premature ; but in the latter end of August a secret
“ despatch was received from England, authorizing and
“ appointing Mr. Hastings to take the measures which
“ he had already adopted in the preceding month.
“ The Directors and the Board of Control have ex-
“ pressed their approbation of this transaction, by
“ liberally rewarding Mr. Baldwyn, the merchant, for
“ sending the earliest intelligence he could procure to
“ Bengal. It was *two days* after Mr. Hastings's infor-
“ mation of the French war, that he formed the reso-
“ lution of exacting the five lacks of rupees from Cheit
“ Sing, and would have made *similar exactions* from
“ all the dependencies of the Company in India, had
“ they been in the same circumstances. The fact is,
“ that the great Zemindars of Bengal pay as much to
“ Government as their lands can afford.—Cheit Sing's
“ collections were above fifty lacks, and his rent not
“ twenty-four.

“ The right of calling for extraordinary aids and
“ military service in times of danger, being univer-
“ sally established in India, as it was formerly in
“ Europe during the feudal times, the subsequent
“ conduct of Mr. Hastings is explained and vindi-
“ cated. The Governor General and Council of
“ Bengal having made a demand upon a tributary
“ Zemindar for three successive years, and that de-
“ mand having been resisted by their vassal, they are
“ justified in his punishment. The necessities of the

“ Company, in consequence of the critical situation of
“ their affairs in 1781, calling for a high fine; the
“ ability of the Zemindar, who possessed near two
“ crores of rupees in money and jewels, to pay the
“ sum required; his backwardness to comply with the
“ demands of his superiors; his disaffection to the
“ English interest, and desire of revolt, which even
“ then began to appear, and were afterwards conspi-
“ cuous, fully justify Mr. Hastings in every subse-
“ quent step of his conduct. In the whole of his
“ proceedings it is manifest that he had not early
“ formed a design hostile to the Zemindar, but was
“ regulated by events which he could neither foresee
“ nor control. When the necessary measures which
“ he had taken for supporting the authority of the
“ Company, by punishing a refractory vassal, were
“ thwarted and defeated by the barbarous massacre of
“ the British troops, and the rebellion of Cheit Sing,
“ the appeal was made to arms, an unavoidable revo-
“ lution took place in Benares, and the Zemindar
“ became the author of his own destruction.”

Here follows the concluding passage, which is ar-
raigned by the Information :

“ The decision of the House of Commons on this
“ Charge against Mr. Hastings, is one of the most
“ singular to be met with in the annals of Parliament.
“ The Minister, who was followed by the majority,
“ vindicated him in every thing that he had *done*, and
“ found him blameable only for what he *intended* to
“ *do*; justified every step of his *conduct*, and only
“ criminated his proposed *intention* of converting the

“ crimes of the Zemindar to the benefit of the state,
“ by a fine of fifty lacks of rupees. An impeachment
“ of *error in judgment* with regard to the *quantum* of
“ a fine, and for an *intention* that never was *executed*,
“ and never known to the offending party, characterizes
“ a tribunal of *inquisition* rather than a Court of
“ Parliament.”

Gentlemen, I am ready to admit that this sentiment might have been expressed in language more reserved and guarded; but you will look to the sentiment itself, rather than to its dress;—to the *mind* of the writer, and not to the bluntness with which he may happen to express it.—It is obviously the language of a warm man, engaged in the honest defence of his friend, and who is brought to what he thinks a just conclusion in argument, which perhaps becomes offensive in proportion to its truth.—Truth is undoubtedly no warrant for writing what is reproachful of any *private* man.—If a member of society lives within the law, then, if he offends, it is against God alone, and man has nothing to do with him; and if he transgress the laws, the libeller should arraign him before them, instead of presuming to try him himself; but as to writings on *general subjects*, which are not charged as an infringement on the rights of individuals, but as of a seditious tendency, it is far otherwise.—When, in the progress either of legislation, or of high national justice in Parliament, they, who are amenable to no law, are supposed to have adopted through mistake or error a principle which, if drawn into precedent, might be dangerous to the public, I shall not admit it to be a

libel *in the course of a legal and bonâ fide publication*, to state that such a principle had *in fact* been adopted.—The people of England are not to be kept in the dark, touching the proceedings of their own representatives.—Let us therefore coolly examine this supposed offence, and see what it amounts to.

First, was not the conduct of the Right Honourable Gentleman, whose name is here mentioned, exactly what it is represented?—Will the Attorney General, who was present in the House of Commons, say that it was not?—Did not the Minister vindicate Mr. Hastings in what he *had done*, and was not his consent to that Article of the Impeachment founded on the *intention only* of levying a fine on the Zemindar for the service of the State, beyond the quantum which he, the Minister, thought reasonable?—What else is this but an impeachment of error in judgment in the quantum of a fine?

So much for the first part of the sentence, which, regarding Mr. Pitt only, is foreign to our purpose; and as to the last part of it, which imputes the sentiments of the Minister to the majority that followed him with their votes on the question, that appears to me to be giving handsome credit to the majority for having voted from conviction, and not from courtesy to the Minister.—To have supposed otherwise, I dare not say, would have been a more *natural* libel, but it would certainly have been a greater one.—The sum and substance therefore of the paragraph is only this: that an impeachment for error in judgment, is not consistent with the theory or the practice of the

English Government. So say I.—I say, without reserve, speaking merely in the abstract, and not meaning to decide upon the merits of Mr. Hastings's cause, that an impeachment for an error in judgment is contrary to the whole spirit of English criminal justice, which, though not binding on the House of Commons, ought to be a guide to its proceedings. I say that the extraordinary jurisdiction of impeachment ought never to be assumed to expose error, or to scourge misfortune, but to hold up a terrible example to corruption and *wilful* abuse of authority by extra legal pains.—If public men are always punished with due severity, when the source of their misconduct appears to have been *selfishly corrupt and criminal*, the public can never suffer when their errors are treated with gentleness.—From such protection to the magistrate, no man can think lightly of the charge of magistracy itself, when he sees, by the language of the saving judgment, that the only title to it is an honest and zealous intention. If at this moment, Gentlemen, or indeed in any other in the whole course of our history, the people of England were to call upon every man in this impeaching House of Commons, who had given his voice on public questions, or acted in authority civil or military, to answer for the issues of our councils and our wars, and if honest single intentions for the public service were refused as answers to impeachments, we should have many relations to mourn for, and many friends to deplore. For my own part, Gentlemen, I feel, I hope, for my country as much as any man that inhabits it; but I would rather see it fall,

and be buried in its ruins, than lend my voice to wound any minister, or other responsible person, however unfortunate, who had fairly followed the lights of his understanding and the dictates of his conscience for its preservation.

Gentlemen, this is no theory of mine ; it is the language of English law, and the protection which it affords to every man in office, from the highest to the lowest trust of Government.—In no one instance that can be named, foreign or domestic, did the Court of King's Bench ever interpose its extraordinary jurisdiction, by information, against any magistrate for the widest departure from the rule of his duty, without *the plainest and clearest proof of corruption*.—To every such application, not so supported, the constant answer has been, Go to a Grand Jury with your complaint.—God forbid that a magistrate should suffer from an error in judgment, if his purpose was honestly to discharge his trust.—We cannot stop the ordinary course of justice ; but wherever the Court has a discretion, such a magistrate is entitled to its protection. I appeal to the noble Judge, and to every man who hears me, for the truth and universality of this position ;—and it would be a strange solecism indeed to assert, that in a case where the Supreme Court of criminal justice in the nation would refuse to interpose an *extraordinary* though a legal jurisdiction, on the principle that the ordinary execution of the laws should never be exceeded, but for the punishment of malignant guilt, the Commons, in their higher capacity, growing out of the same constitution, should reject that principle, and

stretch them yet further by a jurisdiction still more *eccentric*.—Many impeachments have taken place, because the law *could not* adequately punish the objects of them ; but who ever heard of one being set on foot because the law upon principle *would not* punish them ?—Many impeachments have been adopted for a *higher* example than a prosecution in the ordinary Courts, but surely never for a *different* example.—The matter, therefore, in the offensive paragraph, is not only an indisputable truth, but a truth, in the propagation of which we are all deeply concerned.

Whether Mr. Hastings, in the particular instance, acted from corruption or from zeal for his employers, is what I have nothing to do with ;—it is to be decided in judgment ;—my duty stops with wishing him, as I do, an honourable deliverance. Whether the Minister or the Commons meant to found this Article of the Impeachment, on mere error without corruption, is likewise foreign to the purpose.—The author could only judge from what was said and done on the occasion.—He only sought to guard the principle, which is a common interest, and the rights of Mr. Hastings under it. He was therefore justified in publishing that an Impeachment, founded in error in judgment, was to all intents and purposes illegal, unconstitutional, and unjust.

Gentlemen, it is now time for us to return again to the work under examination. The author, having discussed the whole of the first Article through so many pages, without even the imputation of an incorrect or intemperate expression, except in the concluding

passage (the meaning of which I trust I have explained), goes on with the same earnest disposition to the discussion of the second charge respecting the princesses of Oude, which occupies EIGHTEEN pages, not one syllable of which the Attorney General has read, and in which there is not even a glance at the House of Commons.—The whole of this Answer is indeed so far from being a mere cloak for the introduction of slander, that I aver it to be one of the most masterly pieces of writing I ever read in my life.—From thence he goes on to the charge of contracts and salaries, which occupies FIVE pages more, in which *there is not a glance at the House of Commons, nor a word read by the Attorney General.*—He afterwards defends Mr. Hastings against the Charges respecting the opium contract. *Not a glance at the House of Commons; not a word by the Attorney General;* and, in short, in this manner he goes on with the others to the end of the book.

Now is it possible for any human being to believe that a man, having no other intention than to vilify the House of Commons (*as this Information charges*), should yet keep his mind thus fixed and settled as the needle to the pole, upon the serious merits of Mr. Hastings's defence, without ever straying into matter even questionable, except in the two or three selected parts out of two or three hundred pages?—This is a forbearance which could not have existed, if calumny and detraction had been the malignant objects which led him to the inquiry and publication.—The whole fallacy, therefore, arises from holding up to view a few

detached passages, and carefully concealing the general tenour of the book.

Having now finished most, if not all of these *critical* observations, which it has been my duty to make upon this unfair mode of prosecution; it is but a tribute of common justice to the Attorney General (and which my personal regard for him makes it more pleasant to pay), that none of my commentaries reflect in the most distant manner upon *him*; nor upon the Solicitor for the Crown, who sits near me, who is a person of the most correct honour;—far from it. The Attorney General having orders to prosecute, in consequence of the Address of the House to His Majesty, had no choice in the mode;—no means at all of keeping the Prosecutors before you in countenance, but by the course which has been pursued;—but so far has he been from enlisting into the cause those prejudices, which it is not difficult to slide into a business originating from such exalted authority, he has honourably guarded you against them;—pressing indeed severely upon my Client with the weight of his ability, but not with the glare and trappings of his high office.

Gentlemen, I wish that my strength would enable me to convince you of the author's singleness of intention, and of the merit and ability of his work, by reading the whole that remains of it. But my voice is already nearly exhausted; I am sorry my Client should be a sufferer by my infirmity. One passage, however, is too striking and important to be passed over; the rest I must trust to your private examination. The author having discussed all the Charges,

article by article, sums them all up with this striking appeal to his readers :

“ The authentic statement of facts which has
“ been given, and the arguments which have been
“ employed, are, I think, sufficient to vindicate the
“ character and conduct of Mr. Hastings, even on the
“ maxims of European policy. When he was ap-
“ pointed Governor General of Bengal, he was invested
“ with a discretionary power to promote the interests
“ of the India Company, and of the British empire in
“ that quarter of the globe. The general instructions
“ sent to him from his constituents were, ‘ *That in all*
“ ‘ *your deliberations and resolutions, you make the*
“ ‘ *safety and prosperity of Bengal your principal object,*
“ ‘ *and fix your attention on the security of the posses-*
“ ‘ *sions and revenues of the Company.*’ His superior
“ genius sometimes acted in the spirit, rather than
“ complied with the letter, of the law ; but he dis-
“ charged the trust, and preserved the empire com-
“ mitted to his care, in the same way, and with
“ greater splendour and success than any of his pre-
“ decessors in office ; his departure from India was
“ marked with the lamentations of the natives, and the
“ gratitude of his countrymen ; and on his return
“ to England, he received the cordial congratulations
“ of that numerous and respectable society, whose
“ interests he had promoted, and whose dominions he
“ had protected and extended.”

Gentlemen of the Jury,—If this be a wilfully false account of the instructions given to Mr. Hastings for his government, and his conduct under them, the

author and publisher of this defence deserve the severest punishment, for a mercenary imposition on the public.—But if it be true that he was directed to make the *safety and prosperity of Bengal the first object of his attention*, and that, under his administration, it has been safe and prosperous;—if it be true that the security and preservation of our possessions and revenues in Asia were marked out to him as the great leading principle of his government, and that those possessions and revenues, amidst unexampled dangers, have been secured and preserved; then a question may be unaccountably mixed with your consideration, much beyond the consequence of the present prosecution, involving, perhaps, the merit of the Impeachment itself which gave it birth; a question which the Commons, as prosecutors of Mr. Hastings, should in common prudence have avoided; unless, regretting the unwieldy length of their proceedings against him, they wished to afford him the opportunity of this strange anomalous defence; since, although I am neither his counsel, nor desire to have any thing to do with his guilt or innocence; yet, in the collateral defence of my Client, I am driven to state matter which may be considered by many as hostile to the Impeachment; for if our dependencies have been secured, and their interests promoted, I am driven in the defence of my Client to remark, that it is mad and preposterous to bring to the standard of justice and humanity, the exercise of a dominion founded upon violence and terror.—It may, and must be true, that Mr. Hastings has repeatedly offended against the

rights and privileges of Asiatic government, if he was the faithful deputy of a power which could not maintain itself for an hour without trampling upon both :— he may and must have offended against the laws of God and nature, if was the faithful viceroy of an empire wrested in blood from the people to whom God and nature had given it :—he may and must have preserved that unjust dominion over timorous and abject nations by a terrifying, overbearing, insulting superiority, if he was the faithful administrator of your government, which having no root in consent or affection,—no foundation in similarity of interests,—nor support from any one principle which cements men together in society, could only be upheld by alternate stratagem and force.—The unhappy people of India, feeble and effeminate as they are from the softness of their climate, and subdued and broken as they have been by the knavery and strength of civilization, still occasionally start up in all the vigour and intelligence of insulted nature :—to be governed at all, they must be governed with a rod of iron ; and our empire in the East would, long since, have been lost to Great Britain, if civil skill and military prowess had not united their efforts to support an authority which Heaven never gave, by means which it never can sanction.

Gentlemen, I think I can observe that you are touched with this way of considering the subject, and I can account for it.—I have not been considering it through the cold medium of books, but have been speaking of man and his nature, and of human dominion, from what I have seen of them myself amongst

reluctant nations submitting to our authority.—I know what they feel, and how such feelings can alone be repressed.—I have heard them in my youth from a naked savage, in the indignant character of a prince surrounded by his subjects, addressing the Governor of a British colony, holding a bundle of sticks in his hand, as the notes of his unlettered eloquence: “Who is it?” said the jealous ruler over the desert, encroached upon by the restless foot of English adventure—“who is it that causes this river to rise in the high mountains, and to empty itself into the ocean?—Who is it that causes to blow the loud winds of winter, and that calms them again in the summer?—Who is it that rears up the shade of these lofty forests, and blasts them with the quick lightning at his pleasure?—The same Being who gave to you a country on the other side of the waters, and gave ours to us; and by this title we will defend it,” said the warrior, throwing down his tomahawk upon the ground, and raising the war-sound of his nation.—These are the feelings of subjugated man all round the globe; and depend upon it, nothing but fear will control where it is vain to look for affection.

These reflections are the only antidotes to those anathemas of super-human eloquence which have lately shaken the walls that surround us; but which it unaccountably falls to my province, whether I will or no, a little to stem the torrent of,—by reminding you that you have a mighty sway in Asia, which cannot be maintained by the finer sympathies of life, or the practice of its charities and affections: what will

they do for you when surrounded by two hundred thousand men with artillery, cavalry, and elephants, calling upon you for their dominions which you have robbed them of? Justice may, no doubt, in such a case forbid the levying of a fine to pay a revolting soldiery :—a treaty may stand in the way of increasing a tribute to keep up the very existence of the government ;—and delicacy for women may forbid all entrance into a Zenana for money, whatever may be the necessity for taking it.—All these things must ever be occurring.—But under the pressure of such constant difficulties, so dangerous to national honour, it might be better perhaps to think of effectually securing it altogether, by recalling our troops and our merchants, and abandoning our Oriental empire. Until this be done, neither religion nor philosophy can be pressed very far into the aid of reformation and punishment.—If England, from a lust of ambition and dominion, will insist on maintaining despotic rule over distant and hostile nations, beyond all comparison more numerous and extended than herself, and gives commission to her viceroys to govern them with no other instructions than to preserve them, and to secure permanently their revenues ; with what colour of consistency or reason can she place herself in the moral chair, and affect to be shocked at the execution of her own orders ; adverting to the *exact measure* of wickedness and injustice necessary to their execution, and complaining only of *the excess* as the immorality, considering her authority as a dispensation for breaking the commands of God, and the breach of them as only punishable when contrary to the ordinances of man.

Such a proceeding, Gentlemen, begets serious reflections.—It would be better perhaps for the masters and the servants of all such governments, to join in supplication, that the great Author of violated humanity may not confound them together in one common judgment.

Gentlemen, I find, as I said before, I have not sufficient strength to go on with the remaining parts of the book.*—I hope, however, that, notwithstanding my omissions, you are now completely satisfied, that whatever errors or misconceptions may have misled the writer of these pages, the justification of a person whom he believed to be innocent, and whose accusers had themselves appealed to the public, was the single object of his contemplation. If I have succeeded in that object, every purpose which I had in addressing you has been answered.

It only now remains to remind you, that another consideration has been strongly pressed upon you, and, no doubt, will be insisted on in reply.—You will be told, that the matters which I have been justifying as legal, and even meritorious, have therefore not been made the subject of complaint; and that whatever intrinsic merit parts of the book may be supposed or even admitted to possess, such merit can afford no justification to the selected passages, some of which, even with the context, carry the meaning charged by the Information, and which are indecent animadversions on authority.—To this I would answer (still protesting as I do against the application of any one of

* Lord Erskine was now so ill, that he could scarcely stand up while he addressed the Jury.

the innuendos), that if you are firmly persuaded of the singleness and purity of the author's intentions, you are not bound to subject him to infamy, because, in the zealous career of a just and animated composition, he happens to have tripped with his pen into an intemperate expression in one or two instances of a long work.—If this severe duty were binding on your consciences, the liberty of the press would be an empty sound, and no man could venture to write on any subject, however pure his purpose, without an attorney at one elbow, and a counsel at the other.

From minds thus subdued by the terrors of punishment, there could issue no works of genius to expand the empire of human reason, nor any masterly compositions on the general nature of government, by the help of which, the great commonwealths of mankind have founded their establishments; much less any of those useful applications of them to critical conjunctures, by which, from time to time, our own constitution, by the exertion of patriot citizens, has been brought back to its standard.—Under such terrors, all the great lights of science and civilization must be extinguished: for men cannot communicate their free thoughts to one another with a lash held over their heads. It is the nature of every thing that is great and useful, both in the animate and inanimate world, to be wild and irregular,—and we must be contented to take them with the alloys which belong to them, or live without them.—Genius breaks from the fetters of criticism, but its wanderings are sanctioned by its majesty and wisdom, when it advances in its path;—

subject it to the critic, and you tame it into dulness.—Mighty rivers break down their banks in the winter, sweeping away to death the flocks which are fattened on the soil that they fertilize in the summer: the few may be saved by embankments from drowning, but the flock must perish from hunger.—Tempests occasionally shake our dwellings and dissipate our commerce: but they scourge before them the lazy elements, which without them would stagnate into pestilence.—In like manner, Liberty herself, the last and best gift of God to his creatures, must be taken just as she is;—you might pare her down into bashful regularity, and shape her into a perfect model of severe scrupulous law, but she would then be Liberty no longer; and you must be content to die under the lash of this inexorable justice which you had exchanged for the banners of Freedom.

If it be asked where the line to this indulgence and impunity is to be drawn; the answer is easy.—The liberty of the press *on general subjects* comprehends and implies as much strict observance of positive law as is consistent with perfect purity of intention, and equal and useful society; and what that latitude is, cannot be promulgated in the *abstract*, but must be judged of in the *particular instance*, and consequently, upon this occasion, must be judged of by you, without forming any possible precedent for any other case;—and where can the judgment be possibly so safe as with the members of that society which alone can suffer, if the writing is calculated to do mischief to the public? You must therefore try the book by that

criterion, and say, whether the publication was premature and offensive, or, in other words, whether the publisher was bound to have suppressed it until the public ear was anticipated and abused, and every avenue to the human heart or understanding secured and blocked up? I see around me those by whom, by and by, Mr. Hastings will be most ably and eloquently defended;* but I am sorry to remind my friends, that, but for the right of suspending the public judgment concerning him till their season of exertion comes round, the tongues of angels would be insufficient for the task.

Gentlemen, I hope I have now performed my duty to my Client—I sincerely hope that I have; for, certainly, if ever there was a man pulled the other way by his interests and affections,—if ever there was a man who should have trembled at the situation in which I have been placed on this occasion, it is myself, who not only love, honour, and respect, but whose future hopes and preferments are linked from free choice with those who, from the mistakes of the author, are treated with great severity and injustice.—These are strong retardments: but I have been urged on to activity by considerations, which can never be inconsistent with honourable attachments, either in the political or social world,—the love of justice and of liberty, and a zeal for the constitution of my country, which is the inheritance of our posterity, of the public, and of the world. These are the motives which have

* Mr. Law, now Lord Ellenborough, Mr. Plumer, now Vice-chancellor, and Mr. Dallas.

animated me in defence of this person, who is an entire stranger to me;—whose shop I never go to;—and the author of whose publication, as well as Mr. Hastings, who is the object of it, I never spoke to in my life.

One word more, Gentlemen, and I have done.—Every human tribunal ought to take care to administer justice, as we look hereafter, to have justice administered to ourselves.—Upon the principle on which the Attorney General prays sentence upon my Client,—God have mercy upon us!—Instead of standing before him in judgment with the hopes and consolations of Christians, we must call upon the mountains to cover us; for which of us can present, for omniscient examination, a pure, unspotted, and faultless course? But I humbly expect that the benevolent Author of our being will judge us as I have been pointing out for your example.—Holding up the great volume of our lives in his hands, and regarding the general scope of them;—if he discovers benevolence, charity, and good-will to man beating in the heart, where he alone can look;—if he finds that our conduct, though often forced out of the path by our infirmities, has been in general well directed; his all-searching eye will assuredly never pursue us into those little corners of our lives, much less will his justice select them for punishment, without the general context of our existence, by which faults may be sometimes found to have grown out of virtues, and very many of our heaviest offences to have been grafted by human imperfection upon the best and kindest of our affections.—No, Gentlemen, believe me, this is not the course of divine justice, or

there is no truth in the Gospels of Heaven.—If the general tenour of a man's conduct be such as I have represented it, he may walk through the shadow of death, with all his faults about him, with as much cheerfulness as in the common paths of life; because he knows, that instead of a stern accuser to expose before the Author of his nature those frail passages, which, like the scored matter in the book before you, chequer the volume of the brightest and best-spent life, his mercy will obscure them from the eye of his purity, and our repentance blot them out for ever.

All this would, I admit, be perfectly foreign, and irrelevant, if you were sitting here in a case of property between man and man, where a strict rule of law must operate, or there would be an end of civil life and society.—It would be equally foreign, and still more irrelevant, if applied to those shameful attacks upon private reputation which are the bane and disgrace of the press; by which whole families have been rendered unhappy during life, by aspersions cruel, scandalous, and unjust.—Let SUCH LIBELLERS remember, that no one of my principles of defence can at any time or upon any occasion ever apply to shield THEM from punishment: because such conduct is not only an infringement of the rights of men, as they are defined by strict law, *but is absolutely incompatible with honour, honesty, or mistaken good intention.*—On such men let the Attorney General bring forth all the artillery of his office, and the thanks and blessings of the whole public will follow him.—But this is a totally different case.—*Whatever private calumny may mark*

this work, it has not been made the subject of complaint, and we have therefore nothing to do with that, nor any right to consider it.—We are trying whether the public could have been considered as offended and endangered, if *Mr. Hastings himself*, in whose place the author and publisher have a right to put themselves, had, under all the circumstances which have been considered, composed and published the volume under examination.—That question cannot, in common sense, be any thing resembling *a question of LAW*, but is a pure question of *FACT*, to be decided on the principles which I have humbly recommended. I therefore ask of the Court that the book itself may now be delivered to you. Read it with attention, and as you shall find it, pronounce your verdict.

REPLY OF THE ATTORNEY GENERAL.

GENTLEMEN OF THE JURY,

My learned friend and I stand very much contrasted with each other in this cause.—To him belong infinite eloquence and ingenuity, a gift of persuasion, beyond that which I almost ever knew fall to any man's share, and a power of language greater than that which ever met my ear.

In *his* situation, it is not only permitted to him, but it is commendable;—it is his duty to his Client, to exert all those faculties, to comprehend every possible topic, that by the utmost stretch of ingenuity can possibly be introduced into the most remote connexion with the cause. I, on the other hand, Gentlemen,

must disclaim those qualities which I ascribe to my learned friend—namely, that ingenuity, that eloquence, and that power of words;—but if they did belong to me, we stand contrasted also in this circumstance, that I durst not in my present situation use them, whatever little effort I might make to that effect, acting the part simply of an advocate in a private cause. *All that I* must abandon to-day, recollecting the situation in which I stand. Gentlemen, however unworthily, yet so it is, that I stand in the situation of the first officer of this high Court; therefore the utmost fair dealing, the plainest common sense, the clearest argument, the utmost *bona fides* with the Court and Jury, are the duties incumbent upon me. In that spirit therefore, Gentlemen, you will not expect from me the discharge of my duty, in any other way than by the most temperate observation, and by the most correct and the fairest reasoning in my power.

One should have thought, from the general turn of my learned friend's arguments, that I had in this Information imputed it as a crime to the deceased gentleman whom he has named, and whom I think I hardly recollect ever to have heard named before,—that I had imputed it to him as an offence, merely that he reasoned in defence of Mr. Hastings ably and eloquently, as is asserted. My learned friend has said, that I have picked out passages here and there disconnected and disjointed, and have omitted a vast variety of other passages. I hardly think that his second observation would have been made, had it not been for the sake of his first; but inasmuch as I stu-

diously avoided, and would insert no one single line that consisted of fair reasoning and defence for Mr. Hastings, inasmuch as it was no part of my duty so to do;—so he has exculpated me by saying, that the loading an information with that which was not immediately to the point, was a thing which I had avoided with propriety.

This book, as my learned friend himself has described it to you, and read the greater part of, consists of many different heads; it consists of an historical narration of facts; with which I do not quarrel.—It consists of extracts from original papers, with which I do not quarrel.—It consists of arguments, of reasoning, and of very good declamation; with that I do not quarrel. But it consists also of a stain, and a deep stain, upon your representatives in Parliament. My learned friend says, that this is written with a friendly zeal for Mr. Hastings.—I commend that zeal; but at the same time you will permit me to distinguish, if that could avail, between the zeal of an author for Mr. Hastings, and the cold lucrative motives of the printer of that author's work. It was the duty of that printer to have the work revised by some one else, if he has not the capacity to do it himself, and to see that poison does not circulate among the public. It was his bounden duty to do that: zeal could not excuse or exculpate even the author, much less the mechanical printer; though, perhaps, if this had been shown in manuscript as the work of a zealous friend, great allowance might have been made for that zeal.

My learned friend, for the purpose of argument, deviated into almost every field that it was possible for

knowledge such as his—for reading,—experience,—for knowledge of nature, and every thing that belongs to human affairs; he has deviated into them at great length, and nine-tenths of his argument consisted of nothing else. Instead of that, what is this question?—The coldest, the dullest, the driest of all possible questions. It is neither more nor less than this, Whether, when the great tribunal of the nation is carrying on its most solemn proceeding for the benefit and for the interests of the public, whether, while it is even depending, and not ripe for judgment, the accusers, the House of Commons, who carry up their Impeachment to the House of Lords, are slandered by being called persons acting from private and interested animosity;—persons who studiously, when they find a meritorious servant of the country come home crowned with laurels (as it is expressed), are sure to do what?—To IMPEACH AND TO RUIN HIM.

I shall also studiously avoid any thing respecting politics or party, or any thing respecting the conduct or opinions of any men in another place; and my learned friend will excuse me also, if I do not state my own.—These I avoid for this reason, that when we are within these walls, we are to betake ourselves to the true and genuine principles of our law and constitution; the justest picture of oppression of one man cannot justify the calumniating other men; it may justify the defending that man,—but it will not justify a stain upon the House of Commons of this country. And, Gentlemen, surely this author, considerable as he is as a man acquainted with composition, betrays the cause

of Mr. Hastings, as I should think ;—at least he does Mr. Hastings no service, by going beyond his defence —by deserting and abandoning the declamation, and the reasoning, of which he seems to be a considerable master, and deviating into slander and calumny upon the House of Commons, his accusers.

My learned friend has used an analogy. He tells you the House of Commons is a Grand Jury :—I close with him in that analogy ; I ask you, as lovers of good order, as men desirous of repressing licentiousness, as persons who wish that your country should be decently and well governed, whether you would endure for an instant, if this were an Information against the Defendant, who had published that a Grand Jury found a bill, not because they thought it a right thing that the person accused should be put upon his trial, but that they found the indictment against him because he was meritorious,—that they did it from principles of private animosity, and not with a regard to public justice. If an indictment were brought before you for a slander of that sort upon a Grand Jury, could you hesitate an instant, in saying that it was reprehensible, and a thing not to be endured ? Why then, if the whole representatives of the nation are acting in that capacity, if, after many years' investigation, they bring charges against an individual, is it any apology (justification it cannot be), for an author, in his zeal for his friend, to tack to it that which must be a disgrace to the country if it were true, and therefore must not be circulated with impunity ? The commendation which even my learned friend has bestowed upon this work, the impas-

sioned and animated manner in which he has recommended it to your perusal, and that of every man in the country, most manifestly prove what I stated in opening this cause; that when such mischief as this is found in a book, written by a person of no mean abilities, it comes recommended to, and in fact misleads, the best understandings in the country. I leave any man to judge of the mischievous tendency of such a composition, compared with the squibs, paragraphs, and idle trash of the day, which frequently die away with it. Upon this principle those passages which I selected and put into this Information, and which immediately regard the House of Commons, naturally gave offence to the House:—they felt themselves calumniated and aspersed, and entitled to redress from a Jury.

My learned friend says,—Why don't the House of Commons themselves punish it?—Is that an argument to be used in the mouth of one who recommends clemency?—Does he recommend that the iron hand of power should come down upon a man of this sort, instead of temperately, wisely, and judiciously submitting to the common law of this country, saying, Let him be dealt with by that common law? THERE he will have a scrupulously impartial trial;—There he will have every advantage that the meanest subject of the country is entitled to.

But, says my learned friend, passages are selected from distant pages, and tacked together; the context between must explain the meaning of those passages; and he compares it to taking one half of a sentence,

and tells you, that if any man should say, there is no God, taking that part alone, he would be a blasphemer; whereas taking the whole verse, that the fool hath said in his heart there is no God, in that sense it becomes directly the reverse of blasphemy:—Now, has he found any one garbled sentence in the whole course of this Information?—Is not every one a clear, distinct, and separate proposition? On the contrary, when he himself accuses me, not personally but officially, of not having stated the whole of this volume upon record, and undertaking to supply my defects, he misses this very sentence: “ Assertions so hardy, and accusations “ so atrocious, ought not to have been introduced into “ the preamble of an Impeachment, before an assembly “ so respectable as the House of Peers, without the “ clearest and most incontrovertible evidence. In all “ transactions of a political nature there are many concealed movements that escape the detection of the “ world; but there are some facts so broad and “ glaring, so conspicuous and prominent, as to strike “ the general eye and meet the common level of the “ human understanding.”

Now, Gentlemen, I only adduce this to show, that it is possible that two leaves may be turned over at once, on the Defendant's side of the question; and likewise to show you that I have not, for the purpose of accusation, culled and picked out every passage that I might have picked out, or every one that would bear an offensive construction; but have taken those prominent parts where this author has abandoned the purpose my learned friend ascribes to him, that of extenuating the

guilt imputed to Mr. Hastings, and of showing that he had merit rather than demerit with the public. The passages were selected to show that I have betaken myself to the fifth head of the work, as I enumerated them before, where the author does not content himself with executing that purpose, but holds out the House of Commons as persons actuated by private malice, not only to the eyes of the subjects of this country, but also to surrounding nations, whose eyes are unquestionably upon us, throughout the whole course of the proceeding.

I ask you, whether any reasonable answer has been given to the interpretation, which I put upon the various passages in this book? The first of them, I admit, with my learned friend, is simply an introduction, and is stated in the Information, merely to show that the author himself knew the position and the state of things; *viz.* that the Impeachment had been carried up to the House of Lords, and was there depending for their judgment.

Then, after having reasoned somewhat upon the introduction to these several articles of impeachment, and after having stated that these had been circulated in India, he goes on to say,

“Will accusations, built upon such a baseless fabric,
“prepossess the public in favour of the Impeachment?
“What credit can we give to multiplied and accumu-
“lated charges, when we find that they originate from
“misrepresentation and falsehood?”

My learned friend himself told you, in a subsequent part of his speech, that those accusations originated

from an inquiry, which lasted two years and a half, by a Secret Committee of the House of Commons (of which I myself was a pretty laborious member): if that be so, what pretence is there here for impregnating the public with a belief, that from false, scandalous, and fabricated materials, those Charges did originate? Is not that giving a directly false impression to the public? Are not those to be protected from slander of this sort, who take so much pains to investigate what appears to them, in the result, to be a fit matter not for them to decide ultimately upon, but to put in a course of trial, where, ultimately, justice will be done?

Has my learned friend attempted any explanation, or other interpretation, to be put upon these words, than that which the Information imputes?

“If, after exerting all your efforts in the cause of your country, you return covered with laurels, and crowned with success; if you preserve a loyal attachment to your Sovereign; you may expect the thunders of parliamentary vengeance;—you will certainly be impeached, and probably be undone.”

Is it to be said, and circulated in print all over the world, that the House of Commons is composed of such materials, that exactly in proportion to a man's merit is their injustice and inhuman tyranny?—Is that to be said or printed freely, under the pretext that the author is zealous in the interest of a gentleman under misfortune?—But it is said, there are forty libels every day published against this gentleman, and no one is permitted to defend him:—Let all mankind defend him:—let every man that pleases write what he will, provided

he does it within the verge of the law ; if he does it as a manly and good subject, confining himself to reasonable and good argument.

My learned friend says, If you stop this, the press is gagged ; that it never can be said with impunity, that the King and the constable are in the same predicament.—The King and the constable are in one respect in the same predicament, with great difference indeed in the gradation, and in the comparison ; but, without all question, both are magistrates ; the one, the highest, to whom we look with awe and reverence ; and to the other, with obedience, when within his sphere ; that may be freely said in this country, and ever will be said. But is it the way to secure the liberty of the press, that at the time when the nation is solemnly engaged in the investigation of the conduct of one of its first servants, that servant should not only be defended by fair argument and reason, as far as it goes, but that his accusers are to be charged with malice and personal animosity against him ?

If the audacious voice of slander shall go so high as that with impunity, who is there that will ever undertake to be an accuser in this country ? I am sure I, for one, who sometimes am called upon (I hope as sparingly as public exigency will admit of) to exercise that odious and disagreeable task, would with pleasure sacrifice my gown, if I saw it established, that even the highest accusers that the country knows, are under the pretence of the defence of an individual, to be vilified and degraded.—If this be permitted, can subordinate accusers expect to escape ?

Gentlemen, give me leave again to remind you, that nothing can ever secure a valuable blessing so effectually as enforcing the temperate, legal, and discreet use of it; and it cannot be necessary for the *liberty* of the press, that it should be *licentious* to such an extreme. Believe me, that if this country should be worked up, as I expressed it yesterday, to a paroxysm of disgust against the *licentiousness* of the press, which has attacked all ranks of men, and now at last has mounted up to the legislative body, its liberty perhaps never can be in greater danger:—something may be done in that paroxysm of disgust, which might be the gradual means of sapping the foundation of that best of our liberties—
A FREE PRESS.

Is it not obvious to common sense, that if the whole country is rendered indignant by the licentiousness of the press knowing no bounds, this is the instant of greatest hazard to its freedom? Besides, is the folly of the subjects of Great Britain such, that, in order to enjoy a thing in all its perfection, and to all its good purposes, it is necessary to encourage its extremest licentiousness? If you shall encourage this its extremest licentiousness (I venture to call it such when the great accusatorial body of the nation is slandered in this manner,) if you give it such encouragement to-day, no man can tell where it will reach hereafter.

Therefore, so far from cramping the press, so far from sapping its foundation, so far from doing it an injury; you are, on the contrary, taking the surest means to preserve it, by distinguishing the two parts of this book, and by saying,—True it is, that any man is at liberty to

expound and to explain in print the conduct of another,—to justify it, if he pleases, by stating, in a manly way, that which belongs to his subject; but the moment that he steps aside, and slanders an individual, much more the awful body of the representatives of the people, there he has done wrong;—there he has trespassed upon the liberty of the press, and has imminently hazarded its existence.

Gentlemen, lay your hands upon your hearts, ask yourselves as men of honour (because I know that binds you as much as your oaths); ask yourselves, whether the true meaning of this libel is not, that not from public grounds,—not from conviction,—not with a view to render public service, but from private pique,—from private malice,—from bye motives, which I call corruption, the House of Commons have been induced to send this Gentleman to an inquiry before the proper tribunal; and that too, as the libel expresses it, without even reading it,—without hearing,—without consideration; judge, I say, whether that be not the true exposition of this libel, and then, Gentlemen, consider with yourselves what the effect will be, if you ratify and confirm such an offence, by suffering this Defendant to escape.

LORD KENYON then summed up as follows:—

GENTLEMEN OF THE JURY,

I do not feel that I am called upon to discuss the nature of this libel, or to state to you what the merit of the composition is, or what the merit of the argument is, but merely to state what the questions are, to which you are to apply your judgment, and the evidence given in support of this Information. It is impossible, when one reads the preface to it, which states that the libel was written to asperse the House of Commons, not to feel that it is a matter of considerable importance; for I do not know how far a fixed general opinion that the House of Commons deserves to have crimes imputed to it, may go; for men that are governed will be thereby much influenced by the confidence which should be reposed in government.—Mankind will never forget that governors are not made for the sake of themselves, but are placed in their respective stations, to discharge the functions of their office for the benefit of the public; and if they should ever conceive that their governors are so inattentive to their duty, as to exercise their functions only to keep themselves in power, and for their own emolument, without attending to the interests of the public, government must be relaxed, and at last crumble into dust; and, therefore, if the case be made out, which is imputed to the Defendant, it is no doubt a most momentous case indeed; but though it is so, it does not follow that the Defendant is guilty; and Juries have been frequently

told, and I am bound, in the situation in which I stand, to tell you, that, in forming your judgment upon this case, there are two points for you to attend to, namely : —

Whether the Defendant, who is charged with having published this, did publish it ; and whether the sense which the Attorney General, by his innuendos in this Information, has affixed to the different passages, is fairly affixed to them.

From any consideration as to the first of these points you are delivered, because it is admitted, that the book was published by the Defendant ;—but the other is the material point to which you are to apply your judgment. It has been entered into with wonderful abilities, and much in the detail ;—but it is not enough for a man to say, I am innocent ;—it belongs alone to the Great Searcher of Hearts to know whether men are innocent or not ; *we* are to judge of the guilt or innocence of men (because we have no other rule to go by) by their overt acts,—*i. e.* from what they have done.

In applying the innuendos, I accede entirely to what was laid down by the Counsel for the Defendant, and what was admitted yesterday by the Attorney General, as Counsel for the Crown, that you must, upon this Information, make up your minds, that this was meant as an aspersion upon THE HOUSE OF COMMONS—and I admit also, that, in forming your opinion, you are not bound to confine your inquiry to those detached passages which the Attorney General has selected as offensive matter, and the subject of prosecu-

tion.—But let me on the other side warn you, that though there may be much good writing, good argument, morality, and humanity, in many parts of it, yet if there are offensive passages, the good part will not sanctify the bad part.

Having stated that, I ought also to tell you, that in order to see what is the sense to be fairly imputed to those parts which are culled out as the offensive passages, you have a right to look at all the context;—you have a right to look at the whole book;—and if you find it has been garbled, and that the passages selected by the Attorney General do not bear the sense imputed to them, the man has a right to be acquitted; and God forbid he should be convicted.—It is for you, upon reading the Information, which, if you go out of Court, you will undoubtedly take with you, and by comparing it with this pamphlet, to see whether the sense the Attorney General has affixed, is fairly affixed; always being guided by this, that where it is truly ambiguous and doubtful, the inclination of your judgment should be on the side of innocence;—but if you find you cannot acquit him without distorting sentences, you are to meet this case, and all other cases, as I stated yesterday, with the fortitude of men, feeling that they have a duty upon them superior to all leaning to parties; namely, the administration of justice in the particular cause.

It would be in vain for me to go through this pamphlet which has been just put into my hand, and to say whether the sense affixed is the fair sense or not. As far as disclosed by the Information, these passages

afford a strong bias, that the sense affixed to them is the fair sense; but of that you will judge, not from the passages themselves merely, but by reading the context, or the whole book, so much at least as is necessary to enable you to ascertain the true meaning of the author.

If I were prepared to comment upon the pamphlet, in my situation it would be improper for me to do it; my duty is fulfilled when I point out to you what the questions are that are proposed to your judgment, and what the evidence is upon the questions;—the result is yours and yours only.

The Jury withdrew for about two hours, when they returned into Court with a verdict finding the Defendant

NOT GUILTY.

THE
TRIAL OF JOHN FROST.

THE following Case of Mr. JOHN FROST, an Attorney of the Court of King's Bench, who was tried before Lord Kenyon and a Special Jury, in Hilary Term, 1793, for seditious words, requires but little preface, as the whole of the circumstances appear with sufficient clearness in the Speech of the Attorney General, and in the Evidence, which we have prefixed to the Defence by Mr. Erskine as the best illustration of his arguments.

The Indictment having been opened by Mr. Wood, the Attorney General spoke as follows:—

GENTLEMEN OF THE JURY,

THOUGH I have the honour to attend you in my official character, it will not have escaped your attention, that this charge is brought against the present Defendant by an Indictment.

Gentlemen, the transaction, with the guilt of which the Defendant is charged, happened upon the 6th of November last. I hope I shall not be thought guilty of stating any thing that can be considered as improper, when I call your attention to a fact that is notorious to the whole country; that about that period public representations had been made, that the minds of men were alienated from that constitution, which had long been the subject of the warmest encomiums of the best informed men in this country; which we have been in

the habit of considering as the best birthright which our ancestors could have handed down to us, and which we have been long in the habit of considering as the most valuable inheritance that we had to transmit to our posterity. This constitution had been represented as that from which the affections of the country had become altogether alienated ; we were told that this disaffection was moving along the country with the silence of thought; and something like a public challenge was written to meet men who are fond of other systems, by fair appeals to the public, who are finally to decide upon every question between every individual of this country, and the government.

Gentlemen,—The Attorney General of that day, who found himself by the duty of his office called upon, to watch over, what he considered, a property and inheritance of inestimable value, thought it necessary to meet this sort of observation, by stripping himself of what belonged to him in his official character ; and appealing, as far as he could appeal, to the tribunals of the country, which the wisdom of the constitution had established, for the purpose of protecting men from improper accusations ; and he did not therefore call upon those whom he thought proper to prosecute, by the exercise of any official authority of his own, putting them and himself at issue upon these points, as it were, before a Jury of the country, but he directed indictments to be carried to the Grand Juries of the country, to take their sense upon the subject, and to have their opinion, whether it was fit that persons propagating such doctrines as this Defendant stands charged with,

should, or should not, be suffered in this country to state them with impunity?

Gentlemen, in consequence of this determination the present Defendant stands indicted; and before I state the words to you, I think it my duty to mention to you, that he is now to be tried upon the second Indictment which a Grand Jury of this country has found. When the first Indictment was carried before the Grand Jury, this Defendant was abroad; a warrant was issued for his apprehension, and he returned to this country in the month of February last: he appeared to the Indictment, and gave bail to it; by some accident he had been indicted by a name which does not belong to him, and pleaded the misnomer in abatement. Another Indictment was carried before the second Grand Jury, who found that second Indictment without any hesitation, and it is in consequence of that proceeding that he is called upon to-day to deny the truth of the charges which this Information contains, or to state to you upon what grounds he is to contend, that his conduct as stated in this Indictment is to be considered as legal.

Gentlemen, the transaction which the Indictment charges him with, happened on the 6th of November last; you will find from the conversation, as it will be given in evidence to you, that Mr. Frost had, I think, returned from France shortly before; that he had dined with a set of gentlemen, whom I believe to be very respectable, at the Percy Coffee-house upon that day; he came into the public coffee-house between nine and ten in the evening, as nearly as I am able to

ascertain the time, and a gentleman who had long been acquainted with him, to whom I believe I may venture to say, Mr. Frost was certainly under no disobligations in life, seeing him, addressed him as an acquaintance, asked whether he was lately come from France, and how matters went on in that country? Mr. Frost told him he was lately come from France, and expected soon to go there again; he then added the words that have been read to you from the Indictment: "I am for equality; I can see no reason why
" any man should not be upon a footing with another;
" it is every man's birthright."

Gentlemen, some persons present in this coffee-room, the general conduct of all of whom, I think, will have some influence upon your judgment, with respect to the mind with which Mr. Frost conducted himself upon that day, immediately asked him, what he meant by equality? to which he answered, "*Why, I mean*
" no King."—"What! dare you own, in any public
" or private company in this country, such senti-
" ments?"—"Yes, *I mean no King*; the Constitution
" of this country is a bad one."

Gentlemen, what were the other particulars of the conversation that passed I am unable to state to you, but you will find the zeal and anxiety which a number of respectable persons acted with upon this occasion, made it very difficult for Mr. Frost to pursue this sort of conversation any further; and in what manner Mr. Frost left the coffee-house, and under what feelings and apprehensions in the minds of those who were there, I shall leave to you to col-

lect from the witnesses, rather than attempt to state it myself.

Now, Gentlemen, it is for you to decide, whether, in cases of this nature, prosecutions shall be carried on against defendants who think proper to use language so contemptuous to the Sovereign of the country; and surely I need not in this place contend, that any thing that is contemptuous to the Sovereign of the country, any thing grossly reflecting upon the administration of the magistracy of this country, or persons holding the offices of magistrates, according to the law of this country, such as it is, and such as I hope it will continue to be, has never been suffered with impunity.

Gentlemen, when you consider, not merely whether the prosecution is to produce a verdict of Guilty, but whether the prosecution is expedient and proper, it is not unnecessary to advert to the circumstances of the times, and the temper with which the particular Defendant may have proceeded, who is charged with guilt by an Indictment brought before a Jury of this country.

Gentlemen, this doctrine of Equality and no King has been held in this country, which never did, and which, I hope, never will, interfere with the right of free, of temperate, of sober, and of ample discussion, conducted under those restraints, upon every political subject, in which the interests and the happiness of Englishmen can be concerned: but, Gentlemen, when a doctrine of this sort, Equality and no King—a doctrine which either means this, or it means nothing—that there shall be no distinction of ranks in society, is

brought forward, under circumstances so peculiar as those which attended the statement of this doctrine by the Defendant, it becomes the duty of those who are entrusted with watching over the laws of this country, under the control of Juries, who are finally to decide between them and individuals who may be charged with a breach of them, at least to do their duty in stating this to the public, that no one *shall dare* to hold language like this, without being prepared to tell a Jury of this country upon what grounds he conceives himself justifiable in holding it under the circumstances of the present case.

Gentlemen, advert a little to the time—this was in November 1792. There does not exist upon the face of the earth, I hope, a man more zealously attached to this doctrine than I am. I mean, that every man in this country, and in every country, has an equal right to equal laws, to an equal protection of personal security, to an equal protection of personal liberty; to an equal protection of that, without which, it requires no reasoning to prove, that neither personal security, nor personal liberty, ever can exist,—I mean to an equal protection of property—that property which the labour of his life, under the blessing of Providence, may have gained to him, or which the superior kindness of Providence may have given him, without bestowing the labour of life in order to acquire it; all this sort of equality *is that which the Constitution of Great Britain has secured to every man who lives under it*, but is not the equality which was connected with the doctrine No King, upon the 6th of November 1792.

Gentlemen, that country, from which it appears, from this conversation, Mr. Frost came, and to which it appears, from this conversation, that he expected to go, in the year 1789 had framed what was called a constitution, and almost every thing that was valuable in it was borrowed from the constitution of this country in which we live, which had provided for the equal rights of man to equal laws; it had laid down in doctrine, however ill or well it supported the principle, the equal right of every man to the protection of his personal liberty, of his personal security, and of his property. But in 1792, that first year of Equality, as it was called, a different system of equality, connected materially with this system of No King, had been established: a system, which, if it meant any thing, meant this—it meant equality of property, for all other equality had been before provided for.

Gentlemen of the Jury, it is every man's birth-right to have a certain species of equality secured to him, but it neither requires reasoning, nor is it consistent with common sense, and cannot be consistent with reason and common sense, because it is not consistent with the nature of things, as established by the Author of nature, that any other system of equality should exist upon the face of the world.

Gentlemen, this equality, recommended by this gentleman, advisedly, as I think you will be satisfied in this transaction of the 6th of November 1792, is a system which has destroyed all ranks—is a system which has destroyed all property—is a system of universal proscription—is a system which is as contrary

to the order of moral nature, as it is contrary to the order of political nature—it is a system which cuts up by the roots all the enjoyments that result from the domestic relations of life, or the political relations of life—it is a system which cuts up by the roots every incentive to virtuous and active industry, and holds out to the man who chooses to live a life of profligacy and idleness, that he may take from him, who has exerted through life a laborious and virtuous conduct, those fruits which the God of justice, and every law of justice, have endeavoured to secure to him. This is the only sort of equality that can be connected with this doctrine of No King, upon the 6th of November 1792.

Gentlemen, I am ready to agree, that where the charge is, that words have been spoken, it is fit for those who prosecute for the public to remember, that in that situation, they are in a certain degree advocates for the Defendant; for no man can do his duty who wishes to press a Defendant, charged upon the part of the public, with acting more improperly than he shall appear, upon the candid examination of the circumstances, to have acted; it is fit for me also to observe, that the degree of criminality of these words will depend very much upon the temper, the circumstances, the *quo animo*, with which this gentleman thought proper to utter them.

Gentlemen, I will not depart from this principle which I have before stated, that if men will dare to utter words, expressions of more serious import than those which produced the mischief to which I have

been alluding in other places, it will be the duty of persons in official situations to watch for you and the public over that, which they conceive to be a blessing to you and the public; at least to inform those gentlemen that they must account for their conduct; it will be for them, if they can, to account for it satisfactorily.

Gentlemen, you will hear from the witnesses with what temper, with what demeanour, and in what manner, these words were uttered; and I allude again to that which will be described to you, I mean the feelings of the persons present, as some degree of evidence, which will have its due, and not more than its due weight, in your minds.

Gentlemen, I will read to you the words of Mr. Justice Forster, as containing the principle upon which, though the law holds seditious expressions as an exceeding high misdemeanor, it has not thought proper to consider them as a crime of the magnitude of High Treason. He says, "As to mere words, "supposed to be treasonable, they differ widely from "writings in point of real malignity and proper evidence. They are often the effect of mere heat of "blood, which in some natures, otherwise well disposed, carrieth a man beyond the bounds of decency "or prudence; they are always liable to great misconception from the ignorance and inattention of the "hearers, and too often from a motive truly criminal."

Loose words, therefore, not relative to any act or design, are not overt acts of treason, but words of advice or persuasion, and all consultations for the traitorous purposes treated of in this chapter, are certainly so; they

are uttered in contemplation of some traitorous purpose, actually on foot or intended, and in prosecution of it.

Gentlemen of the Jury, it is competent to Mr. Frost, and he will give me leave to say, I think it is incumbent upon him, having made use of words of this sort, to state to you, that in the sentiment which that language conveys, he does not express those sentiments by which his general conduct in life is regulated. For aught I know, he is otherwise well disposed; and I am sure, if evidence of that sort is given to you, you will feel the propriety of giving to it, not only a candid, but you have my leave to give it the very utmost consideration that can be possibly given to it. Gentlemen, you observe too, that words are not made treason, because words may be spoken to by witnesses from a motive truly criminal. You will be to judge, whether the evidence of the witnesses to be called to you to-day proceeds from motives truly criminal, or whether laudable zeal for the constitution of their country is not their only motive for stating to you the conduct of this Defendant.

Gentlemen, there is another circumstance.—I will say but a word to you upon it; that is this: that the propriety of prosecuting for words of this sort depends *a great deal upon the time and season* at which those words are uttered.

Gentlemen, we know, that in this country the Legislature found it necessary to interfere, and by a positive law to enact, that any man who should dare to affirm that the King and Parliament could not regulate the succession to the Crown, should be guilty of High

Treason ; God forbid the time should ever come, and I do not believe it ever can come, when the Legislature, acting upon the same principle, shall be obliged to say, that if it is at this hour High Treason for men deliberately to affirm that the King and Parliament of this country cannot regulate the succession to the Crown, it shall be innocent for men to say that the King and Parliament of this country have no right to continue any government in this country. Why then, Gentlemen, if this doctrine of Equality and No King has been attended with such consequences as it is notorious to all mankind it has been attended with, the notoriety of the fact renders it incumbent upon those, whose duty it is to bring such Defendants before a Jury of their country, for that Jury to say, as between the country and individuals, whether, under such circumstances as will be laid before you, he is to be publicly permitted to hold such doctrines as those which are stated, in a manner that seems to evince that they are not stated for any useful purpose ; but that they are stated for the purpose of trying, whether there is any law in this country that will secure the government of the country from attacks, which mean nothing but to display the audacity with which men dare to attack that government ? And if you shall be convinced, upon the whole of the evidence before you, that the case is such as I have stated it to be, this I am sure of, that you will duly weigh the consequences of the verdict, however you shall be disposed to give it, for the Crown, or for the Defendant ; and I am sure, *the Crown, upon the temperate consideration of what the Jury does, will not*

be dissatisfied with that verdict, let it be what it may. The constitution of this country, if it be excellent, if it has really handed down to us those great and invaluable blessings, which, I believe, ninety-nine persons out of a hundred are convinced it has, and if it be a matter of anxiety to transmit them to our posterity, you will remember that the stability of those blessings finally and ultimately depends upon the conduct of Juries. It is with them, by their verdicts, to establish their fellow-subjects in the enjoyment of those rights; it is with them to say in what cases those rights have been invaded; and the same constitution that has left it to them to say in what cases those rights have been invaded, has also bound every honest man to say, that when they have given their decision upon it, they have acted properly between the country and the individual who is charged with the offence.

Gentlemen, under these circumstances, I shall proceed to lay the case before you, and I have only again to repeat, if you shall find, upon a due consideration of this case, that this is an hasty, an unguarded, and unadvised expression of a gentleman otherwise well disposed, and who meant no real mischief to the country, you will be pleased, with my consent, to deal with the Defendant as a person under those circumstances ought to be dealt with. I never will press a Jury for a verdict, in a case in which, whatever may be the strictness of the law as between man and man, acting upon moral and candid feelings, it ought not to be asked for; and having given you my sentiments, I leave the Defendant in your hands.

EVIDENCE FOR THE CROWN.

JOHN TAITT, of Oxford Street, Upholsterer, sworn. —

Examined by Mr. SOLICITOR GENERAL.

Q. Do you know Mr. John Frost?

A. I never saw him but *that evening* in my life.

Q. What evening?

A. The 6th of November last.

Q. Where were you that evening?

A. In the Percy Coffee-house.

Q. Who was with you?

A. Mr. Paul Savignac.

Q. Were there any other persons in the coffee-house?

A. Yes, several gentlemen.

Q. Can you name any?

A. Mr. Yatman was there, Mr. Bullock, there were not many that I knew.

Q. Did you see Mr. Frost there?

A. Yes.

Q. At what time?

A. About ten in the evening.

Q. Where did Mr. Frost come from?

A. He came from a room above stairs with several gentlemen in the coffee-room.

Q. What did you first perceive with respect to Mr. Frost?

A. He addressed himself, I think, first to Mr. Yatman, but that I am not certain: he was asked how long he had been returned from France.

Lord Kenyon. Was he asked that by Mr. Yatman ?

A. By Mr. Yatman or some of the other gentlemen : he said, he was very lately returned.

Mr. Solicitor General. What did he say more ?

A. He asked him what they were doing there, and he said, things were going on very well there, they were doing very well.

Q. Did you hear him say any thing more ?

A. That he should very shortly return there.

Q. What more ?

A. There was nothing more, till, a few minutes after, he went into the body of the coffee-room, two or three boxes from where I was ; I heard him exalting his voice, and he was for equality—"I am for equality"—upon which I got off my seat, and I went forward, and inquired, "Who are you, Sir?"

Lord Kenyon. You asked him ?

A. Yes, because I did not know him. Mr. Yatman answered, That is Mr. Frost ; upon which I asked him, how he dared to utter such words ? He *still continued*, "I am for equality and no King." Mr. Yatman asked him, if he meant no King in this country, and he said, Yes, no King, or no Kings ; I rather think it was in the plural number. That the constitution of this country was a *very* bad one.

Q. Did he say any thing more ?

A. He said nothing more. I said, he ought to be turned out of the coffee-room ; upon which he walked up the room and placed his back to the fire, and wished, I believe, rather to retract, if he could have retracted, what he had said ; but he still continued,

he was for no King and he was for equality. He quitted the room very shortly after by a general hiss from all the company.

Q. How long did he continue there ?

A. I suppose not above five minutes.

JOHN TAITT—*cross-examined by Mr. ERSKINE.*

Q. You went, I suppose, to the coffee-house just in the ordinary course of your recreation, I take for granted ?

A. It is a coffee-house I very seldom go to.

Q. How came you there that night ?

A. I went there to sup.

Q. You have been there often ?

A. Very often.

Q. Then of course you went to have your supper and read the newspaper ?

A. Exactly so.

Q. I take it you remember all the conversation that passed between Mr. Savignac and you that night ?

A. I believe Mr. Savignac wrote down to the same effect.

Q. I dare say you wrote down this ?

A. I wrote none down.

Q. But do you recollect the conversation between Mr. Savignac and you ?

A. No.

Q. Mr. Frost had been above stairs ?

A. Yes.

Q. With whom he was dining you do not know ?

A. No.

Q. Can you get out of that room without going through the coffee-room ?

A. I don't know.

Q. Don't you know the contrary ?

A. I do not.

Q. You must have seen people coming from above stairs, having frequented that house ?

A. Yes.

Q. Then you know the way from up stairs is through the coffee room ?

A. Yes.

Q. You say, you are not certain that Mr. Frost addressed himself first to Mr. Yatman ?

A. No, I am not.

Q. *The first of the conversation, you will venture to swear to, was a question put by Yatman to him ?*

A. Yes.

Q. Will you venture to swear, that when Mr. Frost came down stairs, he was not going straight through the coffee-house into the street, till Mr. Yatman stopped him, and asked him that question ?

A. That I cannot say.

Q. What time was it ?

A. About ten in the evening, rather before than after.

Q. Mr. Frost was perfectly sober, I suppose ?

A. I cannot say whether he was or not.

Q. There was a good dinner, where a number of gentlemen had been present ?

A. *I cannot say.*

Q. You saw other gentlemen come down ?

A. Yes.

Q. Were they not all drunk?

A. They might be; I don't know.

Q. He asked Mr. Frost how long he had been from France, and he told him he was lately returned; *the conversation went about France?*

A. Yes.

Q. Will you venture to swear, the conversation did not continue between Mr. Yatman and Mr. Frost from the time it first began till the time you heard him say, he was for equality?

A. I cannot say; I did not attend to it till he exalted his voice, and said, he was for equality.

Q. Then what question was put to him, and what turn the conversation was taking, you don't know, till you heard him exalt his voice?

A. No.

Q. Then you did not know whether the conversation respected France or England; but hearing the word Equality, you was all a-gog?

A. No, I was not all a-gog.

Q. You was in another part of the coffee-house?

A. I was in the next box.

Q. By your own account you don't appear to have been very attentive; but hearing his voice louder than before, you immediately went up, and asked him, how he dared to utter such words?

A. Yes.

Q. You said that in a tone of voice that showed you felt yourself insulted?

A. Yes.

Q. Before you knew to what his words alluded ; for he had been talking about France, you know, and how things went on there, and you immediately then interfered. I believe several other persons interfered in the same insulting manner ?

A. Yes, I believe they did.

Q. At this time you make use of an expression which probably may be owing to my dulness, but I cannot understand you. You said, he seemed to wish to retract, but still continued to say the same thing over again ?

A. He did not say much.

Q. You said, he ought to be put upon the fire, you know ?

A. Yes.

Q. Somebody talked of sending for a constable ?

A. Yes ; and *he said, every man there was a constable.*

Mr. Solicitor General. Did Mr. Frost appear to be disabled by liquor ?

A. If I had known him before, I should have been better able to say, but I think there was hardly a doubt but he might ; but as I don't know, I cannot say whether he was or no, but I rather believe he was.

Q. Did he repeat the words more than once ?

A. I don't think he did.

Q. You said, he wished to retract, but still continued, that he was for no King and equality ?

A. He did not repeat that *twice.*

Q. What did you mean by saying, he wished to retract ?

A. I rather thought he was sorry for what he had said ; that is what I mean by it.

PAUL SAVIGNAC, of Carshalton, in Surrey, sworn.—

Examined by Mr. BEARCROFT.

Q. Do you remember being at the Percy coffee-house with Mr. Taitt, upon the 6th of November last ?

A. Yes.

Q. Do you remember seeing Mr. Frost there ?

A. I saw a person whom they called Mr. Frost, but I never saw him before nor since.

Q. That gentleman that sits there ?—(*pointing to Mr. Frost.*)

A. I cannot say.

Q. What time in the evening did you see him in the room ?

A. Between nine and ten.

Q. Did you hear any particular expressions he made use of ?

A. When he passed the box I was sitting in, he was in the company of Mr. Yatman ; and I heard him say, “ I am for equality and no King.”

Lord Kenyon. What did he say ?

A. He was not in the box ; he was walking up the middle of the coffee-room, and he said, “ I am for “equality and no King.” I heard Mr. Yatman, pressing his brow, say, “ What ! equality and no King “in this country ?” Upon which Mr. Frost answered, “ Yes, no King ; there ought to be no King.” I heard nothing more in conversation pass. I stepped from

the box, and asked him, how he dared to hold a doctrine of that kind in a public coffee-room? He made some reply as before, that he was for equality and no King. I told him, if he was not under the protection of the very King he was then reviling, I would kick him out of the coffee-room. Upon which he asked me, if I doubted his courage. I told him, certainly he would not have made use of such expressions without, because I should have supposed it to be an insult to make use of such expressions in a public coffee-house. He was then handled by other gentlemen, and I sat down; but very soon afterwards he left the room, under the execrations and hisses of all the room.

Q. Did you see him when he first came down into the public coffee-room?

A. I don't know that I might. I saw him soon after I saw Mr. Yatman.

Q. Recollect yourself, and tell me how long you can speak to it, as near as you can—recollect how long he was in the public coffee-room before he went away.

A. Not ten minutes; not more I am sure.

Q. I would ask you whether this conduct and these expressions of his produced any, and what kind of notice in the company?

A. That every gentleman there was under the same idea with me, that he ought to be kicked out of the coffee-room.

PAUL SAVIGNAC—*cross-examined by Mr.*
Serjeant RUNNINGTON.

Q. You don't live in that neighbourhood, do you?

A. No, in Carshalton, in Surry.

Q. How long had you been in the coffee-room, before you saw Mr. Frost come in?

A. He was up stairs.

Q. Was he obliged to come through the coffee-room from up stairs to go into the street?

A. I cannot say.

Q. How far were you from Mr. Yatman?

A. They were walking up the coffee-room close to me.

Q. Did anything pass from Mr. Yatman to Mr. Frost?

A. Yes.

Q. Before Mr. Frost spoke at all?

A. No.

Q. Do you recollect Mr. Yatman saying, as he came down stairs, "Well, Mr. Equality, where are you going to?"

A. No, I do not.

MATTHEW YATMAN, of Percy Street, sworn.—

Examined by Mr. BALDWIN.

Q. Was you at the Percy coffee-house on the 6th of November, in the evening?

A. I was.

Q. Did you see Mr. Frost there?

A. I did.

Q. You have long known Mr. Frost ?

A. Mr. Frost was in the commission for watching and lighting the street in which I live, and I am one of the commissioners.

Q. Tell us what passed between Mr. Frost and you at the Percy coffee-house?

A. *He came from the room where he dined, into the coffee-room ; he came up to where I was, and knowing he was lately come from France, I said, Well, how do they go on in France ? He seemed to be stimulated at the question, and he extended his arm, and exalted his voice sufficiently to be heard up stairs, if the door had been opened, "I am for equality and no King."—"What !" says I, "no King in this country ?"—"No King !" as loud as he could hollow.*

Q. Did anything more pass between you and your old friend ?

A. No, I had enough. Upon this, the gentlemen in the coffee-room seemed to be *stimulated* with anger, and Mr. Taitt and Mr. Savignac got up, and so enraged at him, I supposed they would have kicked him out of the coffee-room, and I believe it would have been done, but one gentleman got him to the door, and *prevailed* on him to go out.

Q. Did he say anything more that you recollect ?

A. No, it was all confusion after that.

Q. And the manner of it was as you have described it ?

A. Yes.

Q. With vehemence ?

A. Yes, he was very warm.

MATTHEW YATMAN—*cross-examined by Mr. ERSKINE.*

Q. It was all general confusion after Mr. Taitt had interfered ?

A. Yes.

Q. I believe Mr. Frost said this extremely loud, that he might have been heard up stairs ?

A. I am just of that opinion.

Q. And then it was that Mr. Taitt interfered ?

A. Yes.

Q. After that all was confusion ?

A. Yes.

Mr. Baldwin. Though there was confusion afterwards, there was not when he spoke those words ?

A. No.

Q. Did he speak it coolly or otherwise, excepting the warmth with which you have spoken ? How was he in his understanding ?

A. He spoke it very distinctly, and wished to be heard by everybody.

Q. Was he sober or no ?

A. Certainly he was not drunk.

Mr. Erskine. It was ten o'clock, was it not ?

A. Between nine and ten. I don't know whether it was quite ten.

Q. Do you mean to say he was just as sober as he might be at twelve o'clock in the day ?

A. That he walked.

Q. Do you mean to stake your character and your honour before the Jury, by saying he was as sober as if you had seen him before dinner ?

A. I don't say he was sober.

Q. I ask you, whether you mean to stake your *character* and your honour before the Jury, by saying that he was as sober as at twelve o'clock at day?

A. I should not have known that he was not by his conversation and *his walk : whether he was in his right senses when he used those words, is another thing.*

Q. Do you mean to say he spoke in the manner, and the pitch of voice like a sober man?

A. He was *stimulated*.

Q. He extended his arm?

A. Yes.

Q. You think that a mark of sobriety, do you?

A. I do not think it a mark of good sense.

—— BULLOCK, of ——, sworn.— *Examined by*
Mr. Wood.

Q. Was you at the Percy coffee-house on the 6th of November last?

A. I was.

Q. Did you see Mr. Frost there?

A. I did.

Q. Be so good as tell us whether you heard him say anything, and what it was?

A. I did not attend to the conversation, till I heard what I thought very treasonable words, upon which I committed them to paper: I wrote it at the time with an idea of having it signed.

Q. Be so good as to read it slowly.

A. (*Reads.*) Percy coffee-house, 6th of November, 1792. We, the undermentioned, do hereby certify,

that at about ten o'clock this evening, Mr. John Frost came into this coffee-room, and did then, and in our presence, openly declare, *that he wished to see equality prevail in this country*, and no King, in a loud and *factious* way; and upon being asked, whether he meant that there should be no King in this country, he answered, *Yes*.—That is all I recollect of *sedition words*.

Lord Kenyon. You put this down with a view that they might have been signed?

A. I did.

Mr. Wood. Was Mr. Frost drunk or sober at that time?

A. I never saw Mr. Frost before that time; but he did not appear to me to be a man in liquor; not in the least so.

Q. Have you ever seen him at any other time?

A. I have frequently since.

Q. Where may that be?

A. In Paris.

Q. How soon after this was it?

A. I arrived at Paris on the 27th of December, I think, to the best of my recollection; and I saw him a few days after my arrival there.

Mr. Erskine. We have surely nothing to do with what passed in Paris.

Lord Kenyon. I think I may hear it; if words in this country constituting a different offence, that might be prosecuted here——; but this is quite a new question. In common slander this is always allowed.

Mr. Erskine. I confess I cannot help entering my

protest against it, and upon this plain principle, that it may be recollected that that question did arise, and that the Defendant may have the benefit of it.

Mr. Attorney General. I believe Mr. Erskine has misunderstood what I meant by putting the question. I meant merely whether he had ever seen Mr. Frost at any future time anywhere, and whether, from any conversation he had with him, he can take upon him to judge of the state in which Mr. Frost was upon the 6th of November, 1792; that is, comparing his modes of conversing at future times, near or distant from that 6th of November, 1792. I don't wish to ask a single question respecting Mr. Frost's conversation since that time, whatever the law may be upon the subject. I have a still more important reason for not asking it.

Mr. Erskine. My objection is by no means cured, but still more important. The question was this, whether the witness shall be allowed to say from conversations with Mr. Frost—

Mr. Bullock. I believe I can save you a great deal of trouble. I know nothing about it.

Lord Kenyon. I am clearly of opinion that it might have been asked in the way in which the Attorney General put it, if by his general deportment afterwards he could judge whether he was in liquor or not. I have not the least particle of doubt.

Mr. Erskine. Neither have I certainly upon that point, my Lord.

Q. Where have you seen him since?

A. At Calais the first time.

Lord Kenyon. I will not have all his life and con-

versation brought forward ; I would not have him give evidence from conjecture or knowledge of what he was doing at Paris ; all that I mean to allow is, whether from his general deportment at other times, he thinks he was sober at that time ?

Q. How many times might you see him, think you ?

A. It is impossible to say. I have frequently seen him at a coffee-house.

Q. Are you able to judge from that, whether he was sober or not when you saw him at Percy Street coffee-house ?

A. He was what you may call a sober man.

Mr. Erskine. Was he like a man that had been drinking ?

A. Drinking moderately.

Q. Two bottles of port ; what do you say to that ?

A. I cannot say.

Q. It is very difficult to judge by weights and scales ?

A. I thought he was sober by his manner.

MR. ERSKINE.

GENTLEMEN OF THE JURY,

I RISE to address you under circumstances so peculiar, that I consider myself entitled not only for the Defendant arraigned before you, but personally for myself, to the utmost indulgence of the Court. I

came down this morning with no other notice of the duty cast upon me in this cause, nor any other direction for the premeditation necessary to its performance, than that which I have ever considered to be the safest and the best, namely, the records of the Court, as they are entered here for trial, where for the ends of justice the charge must always appear with the most accurate precision, that the accused may know what crime he is called upon to answer, and his Counsel how he may defend him. Finding, therefore, upon the record which arraigns the Defendant, a simple, unqualified charge of seditious words, unconnected, and uncomplicated with any extrinsic events, I little imagined that the conduct of my client was to receive its colour and construction from the present state of France, or rather of all Europe, as affecting the condition of England; I little dreamed that the 6th day of November (which, reading the Indictment, I had a right to consider like any other day in the calendar) was to turn out an epoch in this country (for so it is styled in the argument), and that instead of having to deal with idle, thoughtless words, uttered over wine, through the passage of a coffee-house, with whatever *at any time* might belong to them, I was to meet a charge, of which I had no notice, or conception, and to find the *loose dialogue* which, even upon the face of the record itself, exhibits nothing more than a casual sudden conversation, exalted to an accusation of the most premeditated, serious, and alarming nature,—verging upon high treason itself, by its connexion with the most hostile purposes to the state,—and assuming a shape

still more interesting from its dangerous connexion with certain mysterious conspiracies, which, in confederacy with French republicans, threaten, *it seems*, the constitution of our once happy country.

Gentlemen, I confess myself much unprepared for a discussion of this nature, and a little disconcerted at being so ;—for though (as I have said) I had no notice from the record, that the politics of Europe were to be the subject of discourse, yet experience ought to have taught me to expect it ;—for what act of Government has for a long time past been carried on by any other means ?—*when* or *where* has been the debate, or *what* has been the object of authority, in which the affairs of France have not taken the lead ?—The affairs of France have indeed become the common stalking-horse for all state purposes. I know the honour of my learned friend too well to impute to him the introduction of them for any improper or dishonourable purpose ; I am sure he connects them in his own mind with the subject, and thinks them legally before you—I am bound to think so, because the general tenour of his address to you has been manly and candid ; but I assert, that neither the actual condition of France, nor the supposed condition of this country, are, or can be, in any shape before you,—and that upon the trial of this Indictment, supported only by the evidence you have heard, the words must be judged of as if spoken by any man or woman in the kingdom, at any time from the Norman conquest, to the moment I am addressing you.

I admit, indeed, that the particular time in which

words are spoken, or acts committed, *may* most essentially alter their quality and construction, and give to expressions, or conduct, which in another season might have been innocent, or at least indifferent, the highest and most enormous guilt:—but for that very reason the supposed particularity of the present times as applicable to the matter before you, is absolutely shut out from your consideration, shut out upon the plainest and most obvious principle of justice and law;—because, wherever *time* or *occasion* mix with an act,—affect its quality,—and constitute or enhance its criminality, they then become an essential part of the misdemeanor itself, and must consequently be charged as such upon the record. I plainly discover I have his Lordship's assent to this proposition.—If therefore the Crown had considered this cause originally in the serious light which it considers it to-day, it has wholly mistaken its course. If it had considered the government of France as actively engaged in the encouragement of disaffection to the monarchy of England, and that her newly-erected Republic was set up by her as the great type for imitation and example here;—if it had considered that numbers, and even classes of our countrymen were ripe for disaffection, if not for rebellion,—and that the Defendant, as an emissary of France, had spoken the words with the premeditated design of undermining our Government;—this situation of things might and ought to have been put as *facts upon the record*, and as facts established by evidence, instead of resting as they do to-day upon assertion. By such a course the crime indeed would have become

of the magnitude represented ; but on the other hand, as the conviction could only have followed from the proof, *the Defendant upon the evidence of to-day must have an hour ago been acquitted* ; since not a syllable has been proved of any emissaries from France to debauch our monarchical principles ;—not even an insinuation *in evidence, that, if there were any such, the Defendant was one of them* ;—not a syllable of proof, either directly or indirectly, that the condition of the country, when the words were uttered, differed from its ordinary condition in times of prosperity and peace. It is therefore a new and most compendious mode of justice, that the facts which wholly constitute, or at all events lift up the dignity and danger of the offence, should not be charged upon record,—*because they could not be proved* ;—but are to be taken for granted in the argument, so as to produce the same effect upon the trial, and in the punishment, as if they had been actually charged, and completely established. If the affairs of France, as they are supposed to affect this country, had been introduced without a warrant from the charge or the evidence, I should have been wholly silent concerning them ; but as they have been already mixed with the subject in a manner so eloquent and affecting, as too probably to have made a strong impression, it becomes my duty to endeavour at least to remove it.

The late revolutions in France have been represented to you as not only ruinous to their authors, and to the inhabitants of that country, but as likely to shake and disturb the principles of this and all other govern-

ments;—you have been told, that though the English people are generally well affected to their government—ninety-nine out of one hundred, upon Mr. Attorney General's own statement—yet that wicked and designing men have long been labouring to overturn it,—and that nothing short of the wise and spirited exertions of the present Government (of which this prosecution is, it seems, one of the instances), has hitherto averted, or can continue to avert the dangerous contagion, which misrule and anarchy are spreading over the world;—that bodies of Englishmen, forgetting their duty to their own country and its constitution, have congratulated the Convention of France upon the formation of their monstrous government;—and that the conduct of the Defendant must be considered as a part of a deep-laid system of disaffection, which threatened the establishments of this kingdom.

Gentlemen, this state of things having no support whatever from any evidence before you, and resting only upon *opinion*; I have an equal right to *mine*;—having the same means of observation with other people of what passes in the world;—and as I have a very clear one upon this subject, I will give it you in a few words.

I am of opinion then, that there is not the smallest foundation for the alarm which has been so industriously propagated; in which I am so far from being singular, that I verily believe the authors of it are themselves *privately* of the same way of thinking;—but it was convenient for *certain persons*, who had changed their principles, to find some plausible pretext

for changing them;—it was convenient for those, who when *out of* power had endeavoured to lead the public mind to the necessity of reforming the corruptions of our own government, to find *any* reasons for their continuance and confirmation, when they operated as engines to support themselves in the exercise of powers, which were only odious when in *other hands*. For this honourable purpose the sober, reflecting, and temperate character of the English nation, was to be represented as fermenting into sedition, and into an insane contempt for the revered institutions of their ancestors:—for this honourable purpose the wisest men,—the most eminent for virtue,—the most splendid in talents,—the most independent for rank and property in the country, were, for no other crime than their perseverance in those sentiments which *certain persons had originated and abandoned*, to be given up to the licentious pens and tongues of hired defamation,—to be stabbed in the dark by anonymous accusation, and to be held out to England and to the whole world, as conspiring under the auspices of cut-throats, to overturn every thing sacred in religion, and venerable in the ancient government of our country. Certain it is, that the whole system of government, of which the business we are now engaged in is no mean specimen, came upon the public with the suddenness of a clap of thunder, without one act to give it foundation, *from the very moment that notice was given of a motion in Parliament, to reform the representation of the people*. Long, long before that time the Rights of Man and other books, though not complained of, had been

written :—equally long before it, the addresses to the French government, which have created such a panic, had existed ;— but as there is a give and take in this world, they passed unregarded. Leave but the *practical* corruptions, and they are contented to wink at the *speculations* of theorists, and the compliments of public-spirited civility ; but the moment the national attention was awakened *to look to things in practice, and to seek to reform corruptions at home*, from that moment, as at the ringing of a bell, the whole hive began to swarm, and every man in his turn has been stung.

This, Gentlemen, is the real state of the case ; and I am so far from pushing the observation beyond its bearing for the defence of a Client, that I am ready to admit Mr. Frost in his conduct has not been wholly invulnerable, and that in some measure he has brought this prosecution upon himself.

Gentlemen, Mr. Frost must forgive me, if I take the liberty to say, that, with the best intentions in the world, he formerly pushed his observations and conduct respecting Government further than many would be disposed to follow him. I cannot disguise or conceal from you, that I find his name in this green book,*

* (Mr. Erskine read the following minutes from Mr. Pitt's handwriting.)

Thatched House Tavern, May 18th, 1782.

At a numerous and respectable meeting of Members of Parliament, friendly to a constitutional reformation, and of members of several committees of counties and cities,

The Duke of Richmond	Sir C. Turner	Dr. John Jebb
Lord Surry	Mr. Taylor	Major Cartwright
Lord Mahon	Mr. Amherst	Mr. Hill

as associated with Mr. Pitt and the Duke of Richmond at the Thatched House Tavern, in St. James's Street;

The Lord Mayor	Mr. Duncombe	Mr. Baynes
Hon. Wm. Pitt	Mr. J. Martin	Mr. Shove
Sir Watkin Lewes	Mr. Ald. Townsend	Mr. Churchill
Rev. Mr. Wyvill	Mr. Ald. Creighton	Mr. Tooke
Mr. Falconer	Mr. Ald. Wilkes	Mr. Horne
Mr. Redman	Rev. Mr. Bromley	Mr. Fröst
Mr. Withers	Mr. B. Hollis	Mr. Trevanion
Mr. Bodely	Mr. Disney Fitch	Mr. Brocklesby
Mr. Vardy	Mr. Edmunds	Rev. Dr. Rycroft
Mr. Sheridan	General Hale	Colonel Byron
Mr. Alderman Turner	Sir Cecil Wray	Major Parry
Mr. Trecothick	Mr. B. Hayes	Mr. Green
Mr. Vincent	Sir J. Norcliffe	&c. &c. &c.

Resolved unanimously,

That the motion of the Honourable William Pitt on the 7th instant, for the appointment of a committee of the House of Commons, to inquire into the state of the representation of the people of Great Britain in Parliament, and to report the same to the House, and also what steps it might be proper in their opinion to take thereupon, having been defeated by a motion made for the order of the day, it is become indispensably necessary that application should be made to Parliament, by petitions from the collective body of the people in their respective districts, requesting a substantial reformation of the Commons House of Parliament.

Resolved unanimously,

That this meeting, considering that a general application by the collective body to the Commons House of Parliament cannot be made before the close of the present session, is of opinion, that the sense of the people should be taken at such times as may be convenient this summer, in order to lay their several petitions before Parliament early in the next session, when their proposition for a Parliamentary reformation, *without which neither the liberty of the*

that I find him also the correspondent of the former, and that I discover in their publications on the structure and conduct of the House of Commons, expressions, which, however merited, and in my opinion commendable, would now be considered not merely as intemperate and unguarded, but as highly criminal.*

nation can be preserved, nor the permanence of a wise and virtuous administration can be secured, may receive that ample and mature discussion which so momentous a question demands.

Resolved unanimously,

That the thanks of this Meeting be given to the Honourable William Pitt for moving, John Sawbridge, Esq., for seconding, and the 141 other members who supported, the motion for a committee to inquire into the state of Parliamentary representation, and to suggest what in their opinion ought to be done thereupon; as well as to the Duke of Richmond, Lord John Cavendish, Mr. Secretary Fox, and every other member of the present ministry, or of either House of Parliament, who has in any way promoted the necessary reform that was the object of the foregoing motion.

WM. PLOMER, Chairman.

And they resolved to have another meeting at the same place on Saturday, June 1.

* (COPY.)

DEAR SIR,

I am extremely sorry that I was not at home, when you and the other gentlemen from the Westminster Committee did me the honour to call.

May I beg the favour of you to express, that I am truly happy to find that the motion of Tuesday last has the approbation of such zealous friends to the public, and to assure the Committee, that my exertions shall never be wanting in support of a measure, *which I*

Gentlemen, the fashion of this world speedily passeth away.—We find these glorious restorers of equal representation, determined, *as ministers*, that, so far from every man being an elector, the metropolis of the kingdom should have no election at all; but should submit to the power or to the softer allurements of the Crown. Certain it is, that, for a short season, Mr. Frost being engaged *professionally as agent for the Government candidate*, did not (indeed he could not) oppose this inconsistency between the doctrine and practice of his friends; and *in this interregnum of public spirit*, he was, in the opinion of Government, a perfect patriot, a faithful friend to the British constitution. As a member of the law he was therefore trusted with Government business in matters of revenue, and was, in short, what all the friends of Government of course are, the best and most approved;—to save

agree with them in thinking essentially necessary to the independence of Parliament and the liberty of the people.

I have the honour to be, with great respect and esteem, Sir,

Your most obedient and most humble servant,

Lincoln's Inn,

W. PITT.

Friday, May 10th.

John Frost, Esq., Percy Street.

SIR,

Lincoln's Inn, May 12th, 1782.

I have received the favour of your note, and shall be proud to receive the honour intended me by the gentlemen of the Middlesex Committee, at the time you mention.

I am, with great regard, Sir,

Your most humble servant,

W. PITT.

John Frost, Esq., Percy Street.

words, he was like all the rest of them,—just what he should be. But the election being over, and, with it, professional agency, and Mr. Frost, as he lawfully might, continuing to hold his former opinions which were still avowed and gloried in, though not acted on, by his ancient friends, he unfortunately did not change them the other day, when they were thrown off by others: on the contrary, he rather seems to have taken fire with the prospect of reducing them to practice; and being, as I have shown you, bred in a school which took the lead in boldness of remonstrance of all other reformers before or since, he fell, in the heat and levity of wine, into expressions which have no correspondence with his sober judgment;—which would have been passed over or laughed at in you or me, but which coming from him were never to be forgiven by Government. This is the genuine history of his offence,—for this he is to be the subject of prosecution,—not the prosecution of my learned friend,—not the prosecution of the Attorney General,—not the prosecution of His Majesty; but the prosecution of Mr. Yatman, who wishes to show you his great loyalty to the state and constitution, which were in danger of falling, had it not been for the drugs of this worthy apothecary.

With regard to the new government of France, since the subject has been introduced, all I can say of it is this:—that the good or evil of it belongs to themselves;—that they had a right, like every other people upon earth, to change their government;—that the system destroyed was a system disgraceful to

free and rational beings, and if they have neither substituted, nor shall hereafter substitute, a better in its stead, they must eat the bitter fruits of their own errors and crimes. As to the horrors which now disfigure and desolate that fine country, all good men must undoubtedly agree in condemning and deploring them, but they may differ nevertheless in decyphering their causes;—men to the full as wise as those who pretend to be wiser than Providence, and stronger than the order of things, may perhaps reflect that a great fabric of unwarrantable power and corruption could not fall to the ground without a mighty convulsion,—that the agitation must ever be in proportion to the surface agitated,—that the passions and errors inseparable from humanity must heighten and swell the confusion, and that perhaps the crimes and ambition of other nations, under the mask of self-defence and humanity, may have contributed not a little to aggravate them,—may have tended to embitter the spirits and to multiply the evils which they condemn,—to increase the misrule and anarchy which they seek to disembroil, and in the end to endanger their own governments, which by carnage and bloodshed, instead of by peace, improvement, and wise administration, they profess to protect from the contagion of revolution.

As to the part which bodies of men in England have taken, though it might in some instances be imprudent and irregular, yet I see nothing to condemn, or to support the declamation which we daily hear upon the subject. The congratulations of Englishmen were directed to the fall of corrupt and de-

spotic power in France, and were animated by a wish of a milder and freer government,—happier for that country, and safer for this; and they were besides addressed to France when she was at peace with England, and when no law was therefore broken by the expression of opinion or satisfaction. They were not congratulations on the murders which have since been committed, nor on the desolations which have since overspread so large a portion of the earth, neither were they traitorous to the government of this country. This we may safely take in trust, *since not one of them, even in the rage of prosecution, has been brought before a criminal court.* For myself, I never joined in any of these addresses, but what I have delivered concerning them is all I have been able to discover; and Government itself, as far as evidence extends, has not been more successful. I would therefore recommend it to His Majesty's servants to attend to the reflections of an eloquent writer, at present high in their confidence and esteem, who has admirably exposed the danger and injustice of general accusations. “*This way of proscribing*” “*the citizens by denominations and general descrip-*” “*tions, dignified by the name of reason of state,*” “*and security for constitutions and commonwealths,*” “*is nothing better at bottom than the miserable in-*” “*vention of an ungenerous ambition, which would*” “*fain hold the sacred trust of power, without any*” “*of the virtues or energies that give a title to it; a*” “*receipt of policy made up of a detestable com-*” “*pound of malice, cowardice, and sloth.* They would

“ govern men against their will ; but in that, Govern-
“ ment would be discharged from the exercise of
“ vigilance, providence, and fortitude ; and therefore
“ that they may sleep on their watch, consent to take
“ some one division of the society into partnership of
“ the tyranny over the rest. But let Government,
“ in whatever form it may be, comprehend the whole
“ in its justice, and restrain the suspicious by its vigi-
“ lance ; let it keep watch and ward ; let it discover
“ by its sagacity, and punish by its firmness, all de-
“ linquency against its power, whenever it exists in
“ the overt acts, and then it will be as safe as God and
“ nature intended it should be. Crimes are the acts
“ of individuals, and not of denominations ; and there-
“ fore arbitrarily to class men under general descrip-
“ tions, in order to proscribe and punish them in the
“ lump for a presumed delinquency, of which perhaps
“ but a part, perhaps none at all, are guilty, is in-
“ deed a compendious method, and saves a world of
“ trouble about proof ; but such a method, instead of
“ being law, is an act of unnatural rebellion against
“ the legal dominion of reason and justice ; and a
“ vice, in any constitution that entertains it, which at
“ one time or other will certainly bring on its ruin.” *

Gentlemen, let us now address ourselves to the cause
disembarrassed by foreign considerations ;—let us
examine what the charge upon the record is, and see
how it is supported by the proofs ;—for, unless the
whole indictment, or some one count of it, be in form

* Edmund Burke.

and substance supported by the evidence, the Defendant must be acquitted, however, in other respects you may be dissatisfied with his imprudence and indiscretion. The indictment charges, "*That the Defendant, being a*
"*person of an impious, depraved, seditious disposition,*
"*and maliciously intending to disturb the peace of the*
"*kingdom ; to bring our most serene Sovereign into*
"*hatred and contempt with all the subjects of the realm,*
"*and to excite them to discontent against the govern-*
"*ment ;* HE THE SAID DEFENDANT, HIS AFORESAID
"*WICKED CONTRIVANCES AND INTENTIONS TO COMPLETE,*
"*PERFECT, AND RENDER EFFECTUAL, ON THE 6TH DAY*
"*OF NOVEMBER,"* spoke the words imputed to him by the Crown. This is the Indictment, and it is drawn with a precision which marks the true principle of English criminal law. It does not merely charge the speaking of the words, leaving the wicked intention to be supplied and collected by necessary and unavoidable inference, because such inference may or may not follow from the words themselves, according to circumstances, which the evidence alone can disclose ; it charges therefore the wicked intention *as a fact*, and as constituting the very essence of the crime, stating as it must state, to apprise the Defendant of the crime alleged against him, the overt act, by which such malicious purpose was displayed, and by which he sought to render it effectual. No man can be criminal without a criminal intention, *actus non facit reum nisi mens sit rea*. God alone can look into the heart, and man, could he look into it, has no jurisdiction over it, until society is disturbed by its actions ; but the criminal mind being the

source of all criminality, the law seeks only to punish actions which it can trace to evil disposition :—it pities our errors and mistakes,—makes allowances for our passions, and scourges only our crimes.

Gentlemen, my learned friend, the Attorney General, in the conclusion of his address to you, did more than ratify these propositions ; for, with a liberality and candour very honourable to himself, and highly advantageous to the public which he represents, he said to you, that if the expressions charged upon the Defendant, should turn out in your opinion to be unadvised and unguarded, arising on the sudden, and unconnected with previous bad intention, he should not even insist upon the strictness of the law, whatever it might be, nor ask a verdict but such as between man and man, acting upon moral and candid feelings, ought to be asked and expected. These were the suggestions of his own just and manly disposition, and he confirmed them by the authority of Mr. Justice Forster, whose works are so deservedly celebrated ; but judging of my unfortunate Client, not from his own charity, but from the false information of others, he puts a construction upon an expression of this great author, which destroys much of the intended effect of his doctrine ;—a doctrine which I will myself read again to you, and by the right interpretation of which I desire the Defendant may stand or fall. In the passage read to you, Forster says, “ As to mere words, they differ widely from “ writings in point of REAL MALIGNITY AND PROPER “ EVIDENCE ; they are often the effect of mere heat of “ blood, which in some natures, otherwise well-disposed,

“ carrieth the man beyond the bounds of prudence ;
“ they are always liable to great misconstruction, from
“ the ignorance or inattention of the hearers, and too
“ often from a motive truly criminal.” Forster afterwards goes on to contrast such loose words, “ *not relative*
“ *to any act or design,*” for so he expresses himself, with “ words of advice and persuasion *in contemplation*
“ *of some traitorous purpose actually on foot or intended,*
“ *and in prosecution of it.*”—Comparing this rule of judgment with the evidence given,—one would have expected a consent to the most favourable judgment,—one would have almost considered the quotation as a tacit consent to an acquittal : but Mr. Attorney General, still looking through the false medium of other men’s prejudices, lays hold of the words, “ *otherwise well-disposed,*” and engrafts upon them this most extraordinary requisition. Show me, he says, that Mr. Frost is *otherwise well-disposed.*—Let him bring himself within the meaning of Forster, and *then* I consent that he shall have the fullest benefit of his indulgent principle of judgment. Good God, Gentlemen, are we in an English Court of Justice ?—Are we sitting in judgment before the Chief Justice of England, with the assistance of a Jury of Englishmen ? and am I in such a presence to be called upon to prove the good disposition of my Client, before I can be entitled to the protection of those rules of evidence which apply equally to the just and to the unjust, and by which an evil disposition must be proved before it shall even be suspected ? I came here to resist and to deny the existence of legitimate and credible proof of disloyalty and disaffection ;

and am I to be called upon to prove that my Client has *not* been, nor is disloyal and disaffected? Are we to be deafened with panegyrics upon the English constitution, and yet to be deprived of its first and distinguishing feature, that innocence is to be presumed until guilt be established? Of what avail is that sacred maxim, if, upon the bare assertion and imputation of guilt, a man may be deprived of a rule of evidence, the suggestion of wisdom and humanity, as if the rule applied only to those who need no protection, and who were never accused? If Mr. Frost, by any *previous overt acts*, by which alone any disposition, good or evil, can be proved, had shown a disposition leading to the offence in question, it was evidence for the Crown. Mr. Wood, whose learning is unquestionable, undoubtedly thought so, when, with the view of crimination, he asked, where Mr. Frost had been before the time in question, for he is much too correct to have put an irregular and illegal question in a criminal case; I must therefore suppose his right to ask it, appeared to him quite clear and established, and I have no doubt that it was so. Why then did he not go on and follow it up, by asking what he had done in France?—what declarations he had made *there*,—or what part he proposed to act *here*, upon his return?—The charge upon the record is, that the words were uttered with malice and premeditation; and Mr. Attorney General properly disclaims a conviction upon any other footing. Surely then it was open to the Crown, upon every principle of common sense, to have proved the previous malice by all previous discourses and previous conduct,

connected with the accusation ; and yet, after having wholly and absolutely failed in this most important part of the proof, we are gravely told, that the Crown having failed in the *affirmative*, we must set about establishing the *negative*, for that otherwise we are not within the pale or protection of the very first and paramount principles of the law and government of the country.

Having disposed of this stumbling-block in the way of sound and indulgent judgment, we may now venture to examine *THIS mighty offence as it is proved by the witnesses for the Crown, supposing the facts neither to have been misstated from misapprehension, nor wilfully exaggerated.*

Mr. Frost, the Defendant, a gentleman, who upon the evidence stands wholly unimpeached of any design against the public peace, or any indisposition to the constitution of the kingdom, appears to have dined at the tavern over the Percy coffee-house,—not even with a company met upon any political occasion, good or evil, but, as has been admitted in the opening, with a society for the *Encouragement of Agriculture*,—consisting of most reputable and inoffensive persons, neither talking nor thinking about government, or its concerns ;—so much for the preface to this dangerous conspiracy. The company did not retire till the bottle had made many merry circles ; and it appears upon the evidence for the Crown, that Mr. Frost, *to say the least*, had drunk very freely : but was it then, that, with the evil intention imputed to him, he went into this coffee-house to circulate his opinions, and to give

effect to designs he had premeditated?—*He could not possibly go home without passing through it*; for it is proved that there was no other passage into the street from the room where he had dined: but having got there by accident, did he even then stop by design and collect an audience to scatter sedition?—So far from it, that Mr. Yatman, the very witness against him, admits, that he interrupted him as he passed in silence towards the street, and fastened the subject of France upon *him*; and every word which passed (*for the whole is charged upon the very record as a dialogue with this witness*), in answer to his *entrapping questions*, introduced with the familiarity of a very old acquaintance, and in a sort of banter too, that gave a turn to the conversation, which renders it ridiculous as well as wicked, to convert it into a serious plan of mischief;—“Well,” says Mr. Yatman, “well, Mr. Equality, so “you have been in France—when did you arrive?—“I suppose you are for equality, and no Kings?”—“O yes,” says Mr. Frost, “certainly I am for equality; “I am for no Kings.” Now, beyond all question, when this answer was made, whether in jest or in earnest, whether when drunk or sober, it neither had, nor *could* have the remotest relation to ENGLAND OR ITS GOVERNMENT:—France had just abolished its new constitution of monarchy, and set up a republic;—she was at that moment divided and in civil confusion on the subject, the question therefore, and the answer, as they applied to France, was sensible and relevant; but to England or to English affairs they had not (except in the *ensnaring* sequel) the remotest

application. Had Yatman therefore ended here, the conversation would have ended, and Mr. Frost would have been the next moment in the street; but still the question is forced upon him, and he is asked,—“What! no Kings in England?” although his first answer had no connexion with England; the question, therefore, was self-evidently a snare; to which he answered, “No Kings in England,”—which seemed to be all that was wanted, for in a moment every thing was confusion and uproar; Mr. Frost, who had neither delivered nor meant to deliver any serious opinion concerning Government, and finding himself injuriously set upon, wished, as was most natural, to explain himself, by stating to those around him what I have been just stating to you;—but all in vain: they were in pursuit of the immortal fame of the very business we are engaged in at this moment, and were resolved to hold their advantage—his voice was immediately drowned by the clamours of insult and brutality,—he was baited on all sides like a bull, and left the coffee-house without the possibility of being heard either in explanation or defence. An indictment was immediately preferred against him, and from that moment the public ear has been grossly and wickedly abused upon the subject;—his character shamefully calumniated,—and *his cause prejudged before the day of trial.*

Gentlemen, it is impossible for me to form any other judgment of the impression which such a proceeding altogether is likely to make upon your minds, but from that which it makes upon *my own.* In the

first place, is society to be protected by the breach of those confidences, and in the destruction of that security and tranquillity, which constitutes its very essence every where, but which, till of late, most emphatically characterized the life of an Englishman?—Is Government to derive dignity and safety by means which render it impossible for any man who has the least spark of honour to step forward to serve it?—Is the time come when obedience to the law and correctness of conduct are not a sufficient protection to the subject, but that he must measure his steps, select his expressions, and adjust his very looks in the most common and private intercourses of life?—Must an English gentleman in future fill his wine by a measure, lest, in the openness of his soul, and whilst believing his neighbours are joining with him in that happy relaxation and freedom of thought, which is the prime blessing of life, he should find his character blasted, and his person in a prison?—Does any man put such restraint upon himself in the most private moment of his life, that he would be contented to have his loosest and lightest words recorded, and set in array against him in a Court of Justice? Thank God, the world lives very differently, or it would not be worth living in. There are moments when jarring opinions may be given without inconsistency,—when Truth herself may be sported with without the breach of veracity—and where well-imagined nonsense is not only superior to, but is the very index to wit and wisdom. I might safely assert, taking too for the standard of my assertion, the most

honourably correct and enlightened societies in the kingdom, that if malignant spies were properly posted, scarcely a dinner would end without a duel and an indictment.

When I came down this morning, and found, contrary to my expectation, that we were to be stuffed into this miserable hole in the wall,* to consume our constitutions:—suppose I had muttered along through the gloomy passages—What, is this cursed trial of Hastings going on again?—Are we to have no respite?—Are we to die of the asthma in this damned corner?—I wish to God that the roof would come down and abate the Impeachment, Lords, Commons and all together. *Such a wish proceeding from the mind* would be desperate wickedness, and the serious expression of it a high and criminal contempt of Parliament.—Perhaps the bare utterance of such words, even without meaning, would be irreverend and foolish;—but still, if such expressions had been gravely imputed to me as the result of a malignant mind, seeking the destruction of the Lords and Commons of England, how would they have been treated in the House of Commons, on a motion for my expulsion?—How!—The witness would have been laughed out of the House before he had half finished his evidence, and would have been voted to be too great a blockhead to deserve a worse character. Many things are indeed wrong and reprehensible, that neither do nor can become the objects of criminal justice, because the

* The King's Bench sat in the small Court of Common Pleas—the Impeachment having shut up its own Court. EDIT.

happiness and security of social life, which are the very end and object of all law and justice, forbid the communication of them ;—because the spirit of a gentleman, which is the most refined morality, either shuts men's ears against what should not be heard, or closes their lips with the sacred seal of honour.

This tacit but well understood and delightful compact of social life is perfectly consistent with its safety.—The security of free governments and the unsuspecting confidence of every man who lives under them, are not only compatible but inseparable. It is easy to distinguish where the public duty calls for the violation of the private one ; criminal intention but not indecent levities,—not even grave opinions unconnected with conduct, are to be exposed to the magistrate ; and when men, which happens but seldom, without the honour or the sense to make the due distinctions, force complaints upon governments, which they can neither approve of nor refuse to act upon, it becomes the office of Juries,—as it is yours to-day,—to draw the true line in their judgments, measuring men's conduct by the safe standards of human life and experience.

Gentlemen, the misery and disgrace of society, under the lash of informers, running before the law, and hunting men through the privacies of domestic life, is described by a celebrated speaker* with such force and beauty of eloquence, that I will close my observations on this part of the subject, by repeating what cannot, I am persuaded, be uttered amongst Englishmen with-

* Edmund Burke.

out sinking deep into their hearts : “ A mercenary
“ informer knows no distinction. Under such a sys-
“ tem, the obnoxious people are slaves, not only to the
“ government, but they live at the mercy of every in-
“ dividual ; they are at once the slaves of the whole
“ community and of every part of it ; and the worst
“ and most unmerciful men are those on whose good-
“ ness they most depend.

“ In this situation men not only shrink from the
“ frowns of a stern magistrate, but are obliged to fly
“ from their very species. The seeds of destruction
“ are sown in civil intercourse, and in social habitudes.
“ The blood of wholesome kindred is infected. Their
“ tables and beds are surrounded with snares. All the
“ means given by Providence to make life safe and
“ comfortable are perverted into instruments of terror
“ and torment. This species of universal subserviency,
“ that makes the very servant who waits behind your
“ chair, the arbiter of your life and fortune, has such
“ a tendency to degrade and abase mankind, and to
“ deprive them of that assured and liberal state of
“ mind which alone can make us what we ought to be,
“ that I vow to God, I would sooner bring myself to
“ put a man to immediate death for opinions I disliked,
“ and so to get rid of the man and his opinions at once,
“ than to fret him with a feverish being, tainted with the
“ jail distemper of a contagious servitude, to keep him
“ above ground, an animated mass of putrefaction,
“ corrupted himself, and corrupting all about him.”

If these sentiments apply so justly to the reprobation
of persecution for opinions—even for opinions which

the laws, however absurdly, inhibit,—for opinions though certainly and maturely entertained,—though publicly professed, and though followed up by corresponding conduct;—how irresistibly do they devote to contempt and execration all eavesdropping attacks upon loose conversations, casual or convivial, more especially when proceeding from persons conforming to all the religious and civil institutions of the state, unsupported by general and avowed profession, and not merely unconnected with conduct, but scarcely attended with recollection or consciousness! Such a vexatious system of inquisition, the disturber of household peace, began and ended with the Star-Chamber;—the venerable law of England never knew it;—her noble, dignified, and humane policy soars above the little irregularities of our lives, and disdains to enter our closets without a warrant founded upon complaint. Constructed by man to regulate human infirmities, and not by God to guard the purity of angels, it leaves to us our thoughts, our opinions, and our conversations, and punishes only overt acts of contempt and disobedience to her authority.

Gentlemen, this is not the specious phrase of an advocate for his Client;—it is not even my exposition of the spirit of our constitution;—but it is the phrase and letter of the law itself. In the most critical conjunctures of our history, when government was legislating for its own existence and continuance, it never overstepped this wise moderation.—To give stability to establishments, it occasionally bridled opinions concerning them, but its punishments, though sanguinary,

laid no snares for thoughtless life, and took no man by surprise.

Of this the act of Queen Anne, which made it high treason to deny the right of Parliament to alter the succession, is a striking example. The hereditary descent of the Crown had been recently broken at the Revolution by a minority of the nation, with the aid of a foreign force, and a new inheritance had been created by the authority of the new establishment, which had but just established itself. Queen Anne's title and the peaceable settlement of the kingdom under it, depended wholly upon the constitutional power of Parliament to make this change;—the superstitions of the world, and reverence for antiquity, which deserves a better name, were against this power and the use which had been made of it;—the dethroned King of England was living in hostile state at our very doors, supported by a powerful monarch at the head of a rival nation,—and our own kingdom itself full of factious plots and conspiracies, which soon after showed themselves in open rebellion.

If ever, therefore, there was a season when a narrow jealousy could have been excusable in a government:—if ever there was a time when the sacrifice of some private liberty to common security would have been prudent in a people, it was at such a juncture; yet mark the reserve of the Crown and the prudence of our ancestors in the wording of the statute. Although the denial of the right of Parliament to alter the succession was tantamount to the denial of all legitimate authority in the kingdom, and might be considered as

a sort of abjuration of the laws, yet the statute looked at the nature of man and to the private security of individuals in society, while it sought to support the public society itself;—it did not therefore dodge men into taverns and coffee-houses, nor lurk for them at corners, nor watch for them in their domestic enjoyments. The act provides, “That every person who
“should maliciously, advisedly, and directly, by *writing or printing*, affirm, that the Queen was not the
“rightful Queen of these realms, or that the Pretender
“had any right or title to the Crown, or that any
“other person had any right or title, otherwise than
“according to the acts passed since the Revolution for
“settling the succession, or that the legislature hath
“not sufficient authority to make laws for limiting the
“succession, should be guilty of high treason, and
“suffer as a traitor;” and then enacts, “That if any
“person shall *maliciously*, and *directly*, by *preaching*,
“*teaching*, or *advised speaking*, declare and maintain
“the same, he shall incur the penalties of a *præmunire*.”

“I will make a short observation or two,” says Forster, “on the act. First, the positions condemned by
“them had as direct a tendency to involve these nations in the miseries of an intestine war, to incite
“Her Majesty’s subjects to withdraw their allegiance
“from her, and to deprive her of her crown and royal
“dignity, as any general doctrine, any declaration *not*
“*relative to actions or designs*, could possibly have;
“and yet in the case of bare words, positions of this
“dangerous tendency, though maintained *maliciously*,
“*advisedly*, and *directly*, and even in the solemnities

“ of *preaching and teaching*, are not considered as overt
“ acts of treason.

“ Secondly. In no case can a man be *argued* into
“ the penalties of the act by inferences and conclusions
“ drawn from what he hath affirmed; the criminal
“ position must be *directly* maintained, to bring him
“ within the compass of the act.

“ Thirdly. Nor will every rash, hasty, or unguarded
“ expression, owing perhaps to natural warmth, or
“ thrown out in the heat of disputation, render any
“ person criminal within the act; the criminal doctrine
“ must be maintained *maliciously and advisedly*.”

He afterwards adds, “ Seditious *writings* are perma-
“ nent things, and if published, they scatter the poison
“ far and wide. They are acts of deliberation, capable
“ of satisfactory proof, and not ordinarily liable to mis-
“ construction; at least they are submitted to the
“ judgment of the Court, naked and undisguised, as
“ they came out of the author’s hands. *Words* are
“ transient and fleeting as the wind; the poison they
“ scatter is, at the worst, confined to the narrow circle
“ of a few hearers; they are frequently the effect of a
“ sudden transport, easily misunderstood, and often
“ misreported.”

Gentlemen, these distinctions, like all the dictates
of sound policy, are as obvious to reason as they are
salutary in practice. What a man writes that is
criminal and pernicious, and disseminates when written,
is conclusive of his purpose;—he manifestly must
have deliberated on what he wrote, and the distri-
bution is also an act of deliberation;—*intention in such*

cases is not therefore matter of legal proof but of reasonable *inference*, unless the accused, by proof on his side, can rebut what reason must otherwise infer : since he who writes to others, undoubtedly seeks to bring over other minds to assimilate with his own. So he who advisedly speaks to others upon momentous subjects, may be presumed to have the same intention ; but yet so frail is memory,—so imperfect are our natures, so dangerous would it be to place *words*, which, to use the language of Forster, are transient and fleeting, upon a footing with deliberate *conduct*, that the criminating letter of the law itself interposes the check and excludes the danger of a rash judgment, by curiously selecting from the whole circle of language an expression which cannot be mistaken ; for nothing said upon the sudden without the evidence of a context, and sequel in thought or conduct, can in common sense deserve the title of advised speaking. Try the matter before you upon the principle of the statute of Queen Anne, and examine it with the caution of Forster.

Suppose then, that, instead of the words imputed by this record, the Defendant coming half drunk through this coffee-house, had, in his conversation with Yatman, denied the right of Parliament to alter the succession. Could he have been adjudged to suffer death for high treason under the statute of Queen Anne?—Reason and humanity equally revolt at the position, and yet the decision asked from you is precisely that decision ; for if you could not have found advised speaking to bring it within that statute of

treason, so neither can you find it as the necessary evidence of the intention charged upon the present Indictment, which intention constitutes the misdemeanor.

If any thing were wanting to confirm these principles of the law and the commentaries of its ablest Judges, as applicable to words,—they are in another way emphatically furnished by the instance before us;—for in the zeal of these coffee house politicians to preserve the Defendant's expressions, they were instantly to be put down in writing, and signed by the persons present;—yet the paper read by Colonel Bullock, and written, as he tells you, at the very moment with that intention, contains hardly a single word, from the beginning to the end of it, either in meaning or expression, the same as has been related by the witnesses;—it sinks in the first place the questions put to the Defendant, and the whole dialogue which is the best clue to the business, and records “*that Mr. Frost came into the coffee-house, and declared,*” an expression which he never used, and which wears the colour of deliberation, “*that he wished to see equality prevail in this country.*”—Another expression, which it is now agreed on all hands he never uttered, and which conveys a very different idea from saying in answer to an impertinent or a taunting question, “O yes, I am for equality.”—I impute nothing at all to Colonel Bullock, who did not appear to me to give his evidence unfairly;—he read his paper as he wrote; but this is the very strength of my observation: for suppose the case had not come for months to trial, the other wit-

nesses (and honestly too) might have let their memories lean on the written evidence, and thus you would have been trying, and perhaps condemning, the Defendant for speaking words, stript too of their explanatory concomitants, which it stands *confessed at this moment were never spoken at all.*

Gentlemen, the disposition which has of late prevailed to depart from the wise moderation of our laws and constitution, under the pretext, or from the zeal of preserving them, and which has been the parent of so many prosecutions, is an awful monument of human weakness.—These Associators to prosecute, who keep watch of late upon our words and upon our looks, are associated, it seems, to preserve our excellent constitution from the contagion of France, where an arbitrary and tyrannous democracy, under the colour of popular freedom, destroys all the securities and blessings of life ;—but how does it destroy them ? How, but by the very means that these new partners of executive power would themselves employ, if we would let them—by inflicting, from a mistaken and barbarous state necessity, the severest punishments for offences never defined by the law ;—by inflicting them upon suspicion instead of evidence, and in the blind, furious, and indiscriminate zeal of persecution, instead of by the administration of a sober and impartial jurisprudence.—Subtracting the horrors of invading armies which France cannot help, what other mischief has she inflicted upon herself ? From what has she suffered but from this undisciplined and cruel spirit of accusation and rash judgment ?—A spirit that will

look at nothing dispassionately, and which, though proceeding from a zeal and enthusiasm for the most part honest and sincere, is nevertheless as pernicious as the wicked fury of dæmons, when it is loosened from the sober dominion of slow and deliberate justice. What is it that has lately united all hearts and voices in lamentation?—What but those judicial executions, which we have a right to style murders, when we see the axe falling, and the prison closing upon the genuine expressions of the inoffensive heart;—sometimes for private letters to friends, unconnected with conduct or intention; sometimes for momentary exclamations in favour of royalty, or some other denomination of government different from that which is established.

These are the miseries of France,—the unhappy attendants upon revolution; and united as we all are in deploring them, upon what principle of common sense shall we vex and terrify the subjects of our own country, in the very bosom of peace, and disgust them with the Government, which we wish them to cherish, by unusual, irritating, and degrading prosecutions?

Indeed, I am very sorry to say that we *hear* of late too much of the excellence of the British Government, and *feel* but too little of its benefits.—They, too, who pronounce its panegyrics, are those who alone prevent the entire public from acceding to them;—the eulogium comes from a suspected quarter, when it is pronounced by persons enjoying every honour from the Crown, and treating the people upon all

occasions with suspicion and contempt.—The three estates of the kingdom are co-ordinate, all alike representing the dignity, and jointly executing the authority of the nation ; yet all our loyalty seems to be wasted upon one of them.—How happens it else, that we are so exquisitely sensible, so tremblingly alive to every attack upon the CROWN, OR THE NOBLES that surround it, yet so completely careless of what regards THE ONCE RESPECTED AND AWFUL COMMONS OF GREAT BRITAIN ?

If Mr. Frost had gone into every coffee-house, from Charing-cross to the Exchange,—lamenting the dangers of popular government,—reprobating the peevishness of opposition in Parliament, and wishing in the most advised terms, that we could look up to the Throne and its excellent Ministers alone, for quiet and comfortable government, do you think that we should have had an indictment ?—I ask pardon for the supposition ; I can discover that you are laughing at me for its absurdity.—Indeed, I might ask you whether it is not the notorious language of the highest men, in and out of Parliament, to justify the alienation of the popular part of the Government from the spirit and principle of its trust and office, and to prognosticate the very ruin and downfall of England, from a free and uncorrupted representation of the great body of the people ? I solemnly declare to you, that I think the whole of this system leads inevitably to the dangers we seek to avert ;—it divides the higher and the lower classes of the nation into adverse parties, instead of uniting and compounding them into one

harmonious whole;—it embitters the people against authority, which, when they are made to feel and know is but their own security, they must, from the very nature of man, unite to support and cherish. I do not believe that there is any set of men to be named in England, I might say, that I do not know an individual, who seriously wishes to touch the Crown, or any branch of our excellent constitution; and when we hear peevish and disrespectful expressions concerning any of its functions, depend upon it, it proceeds from some obvious variance between its theory and its practice. These variances are the fatal springs of disorder and disgust;—they lost America, and in that unfortunate separation laid the foundation of all that we have to fear; yet, instead of treading back our steps, we seek recovery in the system which brought us into peril. Let Government in England always take care to make its administration correspond with the true spirit of our genuine constitution,—and nothing will ever endanger it. Let it seek to maintain its corruptions by severity and coercion, and neither laws nor arms will support it:—These are my sentiments, and I advise you, however unpopular they may be at this moment, to consider them, before you repel them.

If the Defendant, amongst others, has judged too lightly of the advantages of our government, reform his errors by a beneficial experience of them; above all, let him feel its excellence to-day in its beneficence;—let him compare in his trial the condition of an English subject with that of a citizen of France, which

he is supposed in theory to prefer. These are the true criterions by which, in the long run, individuals and nations become affectionate to governments, or revolt against them;—for men are neither to be talked nor written into the belief of happiness and security, when they do not practically feel them, nor talked or written out of them, when they are in the full enjoyment of their blessings: but if you condemn the Defendant upon this sort of evidence, depend upon it, he must have his adherents, and, as far as that goes, I must be one of them.

Gentlemen, I will detain you no longer, being satisfied to leave you, as conscientious men, to judge the Defendant as you yourselves would be judged; and if there be any amongst you, who can say to the rest, that he has no weak or inconsiderate moments,—that all *his* words and actions, even in the most thoughtless passages of his life, are fit for the inspection of God and man, he will be the fittest person to take the lead in a judgment of Guilty, and the properest Foreman to deliver it with good faith and firmness to the Court.

I know the privilege that belongs to the Attorney General to reply to all that has been said; but perhaps, as I have called no witnesses, he may think it a privilege to be waived. It is, however, pleasant to recollect, that if it should be exercised, even with his superior talents, his honour and candour will guard it from abuse.

R E P L Y.

MR. ATTORNEY GENERAL.

GENTLEMEN OF THE JURY,

THE experience of some years has taught me that in the useful administration of justice, as it is administered by the Juries in this country, little more is necessary than to lay before them correctly the facts upon which they are to form their judgment, with such observations as naturally arise out of those facts.

Gentlemen, feeling that very strongly at present, I am certainly bound in some measure to account to you, why I feel it my duty in this stage of this proceeding to avail myself of that liberty which my learned friend has stated to belong to me in addressing you again.

Gentlemen, my learned friend has thought proper to state this prosecution as the prosecution of informers,—of men whom he cannot call mercenary informers, but certainly whom he has been anxious to represent as officious informers; as a prosecution which it was my duty, independently of any considerations that I might feel myself upon the subject, to bring before you,—that it was what I could not approve of, but what I was bound to persevere in till I received your verdict.

Gentlemen, with respect to bringing the cause before the Court, my learned friend has not confined his observations to that point. He has stated also,—and

every thing that falls from him, and more especially in a case that concerns the Crown and an individual, deserves and must have an answer from me.—He has given you a comment upon words, upon which I likewise offered you some humble observations ;—I mean the words, “ otherwise well-disposed.” I remarked, that where words in their natural meaning did import a seditious mind, it would be competent to a Defendant to show upon a general principle, that, whatever might be the words uttered, the circumstances attending the expression of them might be stated to the Jury, in order to give a different sense to them from their primary import.

Gentlemen, I hold it to be my duty, standing here responsible to the public for the acts that I do—deeply impressed with a consciousness that I am so responsible, to state to you, that I must be extremely guilty of a breach of my duty, if I should now call upon you for a verdict, or if I should now take your opinion ; because there is not a single tittle of evidence before you which was not before me when the Indictment was laid. I protest against that doctrine, that the Attorney General of England is bound to prosecute because some other set of men choose to recommend it to him to prosecute, he disapproving of that prosecution. I know he has it in his power to choose whether he will or not, and he will act according to his sense of duty. Do not understand me to be using a language so impertinent, as to say, that the opinions of sober-minded persons in any station in life, as to the necessity that calls for a prosecution, ought not

deeply to affect his judgment. But I say, it is his duty to regulate his judgment by a conscientious pursuance of that which is recommended to him to do. And if any thing is recommended to him, which is thought by other persons to be for the good of the country, but which he thinks is not for the good of the country, no man ought to be in the office who would hesitate to say, My conscience must direct me, your judgment shall not direct me. And I know I can do this—I can retire into a situation in which I shall enjoy, what, under the blessings of that constitution thus reviled, is perhaps the best proof of its being a valuable constitution,—I mean the fair fruits of an humble industry, anxiously and conscientiously exercised in the fair and honourable pursuits of life. I state, therefore, to my learned friend, that I cannot accept that compliment which he paid me, when he supposed it was not my act to bring this prosecution before you, because it was not what I myself could approve. Certainly, this prosecution was not instituted by me—but it was instituted by a person, whose conduct in the humane exercise of his duty is well known; and I speak in the presence of many who have been long and often witnesses to it: and when it devolved upon me to examine the merits of this prosecution, it was my bounden duty to examine, and it was my bounden duty to see if this was a breach of the sweet confidences of private life. If this is a story brought from behind this gentleman's chair by his servants, I can hardly figure to myself the case in which the public necessity and expediency of a prosecution should

be so strong as to break in upon the relations of private life. But, Good God ! is this prosecution to be so represented—when a man goes into a coffee-house, who is from his profession certainly not ignorant of the respect which the laws of his country require from him, as much as from any other man ; and when he, in that public coffee-house (provided it was an advised speaking), uses a language, which I admit it is clear upon the evidence given you to-day, provoked the indignation (if you please so to call it) of all who heard it—when persons, one, two, three, or more, come to ask him what he meant by it, when he gives them the explanation, and when he makes the offensive words still more offensive by the explanation that he repeatedly gives—will any man tell me, that if he goes into a public coffee-house, whether he comes into it from up stairs, or whether he goes into it from the street, that he is entitled to the protection that belongs to the confidences of private life, or that it is a breach of the duties that result out of the confidences of private life to punish him ?

Gentlemen, I call upon you seriously to consider the case, to act with candour, to act with indulgence to him if you please, but at the same time to act with firmness as between him and the country. My learned friend has tried me in some measure to-day ; now I avow it again—when *respectable persons* will state to me that such circumstances did pass, I will not take upon myself to say, that it is consistent with my duty to the King, or that it is consistent with my duty to the country, for whose benefit it is that he is King,

that I should hear that such things have passed unnoticed. And when it is stated by such men as these are,—unimpeached,—feeling something, though their political theories are not the same as those of this Defendant, surely they may be allowed to feel and to express at least with zeal their indignation, if not to assert with industry their right to what they enjoyed through the blessings of Providence, and the constitution under which they lived. It was a case which excited the honest zeal and the fair and reasonable indignation of a great number of gentlemen;—all respectable men, and competent to sit in that jury-box, as between this or any other individual and the justice of the country. But, Gentlemen, according to my learned friend, I was to do one of these things: I was to say to Mr. Frost, which I certainly should have been glad to have said to him, or any man who stands in the situation of a Defendant, if I could do it with propriety, What is this story, Mr. Frost? Can I ask a Defendant, whom I am to prosecute upon the *prima facie* evidence laid before me, what he is to say for himself in that stage of the business? It was open to Mr. Frost in every stage of the business to have explained his conduct. He does not come upon this record to say, as many persons have said, I admit I spoke the words, I will not give you the trouble to prove the words; I spoke them in a degree of heat. I am (what he has never yet said, for he only seemed to retract,) I am sorry for the words I have used.

Gentlemen, my learned friend says, I should have said nothing to you upon the subject of France, and

he particularly alludes to a question put by my learned friend, who will do me the justice to say, that I had no communication with him upon any such question. But I will explain myself upon that, as I think I ought to do upon every thing which occurs in a cause.

Gentlemen, if words of this sort spoken in France are a crime, I know from his Lordship's authority, as well as the authority of every principle of settled law, that I cannot give them in evidence ; and if acts done in France amount to a crime against the law of this country, I know also, I ought not to give in evidence upon an indictment, such as this is, any evidence with respect to the acts so done. They ought to be the subject of a separate prosecution : and if my opinion had risen higher upon that subject than it does, I would not in the prosecution of this case have even risked such a question as that, whether certain acts can be done and declarations made in another country by a subject of this country, without his being amenable to the law of this country? It is a question that ought to be tried, if it is to be tried at all, in a more solemn form, than taken as a mere collateral point in evidence. But was not I entitled to speak about France? Did not this gentleman state, that things were going on well in France ;—that he had come from France ;—that it was his intention to go again to France, and that, according to that intention, he did go to France? Is not this evidence, that he knew what he was saying ;—that he was speaking that which his future acts confirmed? Then how does it appear, that he was drunk, or at least so much so, that he could not speak about

any thing ;—that he could not correctly speak his opinion ? It is clear, that he stated a fact with respect to what he was to do, that the future act of his life corresponded with ; and yet my learned friend says, he did not speak advisedly at all.

Gentlemen, another observation that fell from my learned friend was, with respect to what I have stated as to the words, “ otherwise well disposed.” Gentlemen, give me leave, in the first place, to call your attention, as far as my Lord may think your attention ought to be called to it, to what I take to be a clear distinction in the law of England. Gentlemen, if words of their own efficacy and import manifest a seditious intention, the uttering those words is a misdemeanor. I do not desire you to try this question in that manner, because I again repeat what I said towards the conclusion of what I before addressed to you, that if you should be of opinion, that Mr. Frost did not utter the words advisedly and knowingly, and with an intention to work the mischief this record imputes to him, I do not desire this conviction ; but I will say this, that it is a very clear distinction in law, with respect to words as they amount to high treason. What did the Legislature say in those just and beautiful passages that were read to you by Mr. Erskine, from Mr. Justice Forster’s Reports—that the penalties in high treason are so exceedingly great, that, although treasonable words were spoken, yet if not spoken with such intention, they would not, as in the case of high treason, expose the subject to those pains and penalties ;—did they mean to say, they should be no offence at all, if

the conscience of the Jury should be satisfied that they were used in a way to make them criminal? By no means. But if you are of opinion that these words were advisedly spoken, if the words themselves import that seditious intent which this record ascribes to them, I say it falls directly within the principle of Mr. Justice Forster, namely, that it would be competent to the Defendant to give evidence of his general demeanour as a good subject of the country, to show that he had not that meaning, which is the *prima facie* sense of the words: if that principle be just, I say that Mr. Frost has not found in the company below stairs, nor has he found upon the face of the earth, a single person to state to you, that from his general demeanour, when he uttered these words, he must not have had the fair use of that judgment and disposition, which conducts him through general life; I say no more about it; I am sure it would have been competent to him to have produced such witnesses. Gentlemen, it would not only have been competent to him, but, from the turn the cause has taken, it was made almost necessary. If Mr. Frost was drunk, as my learned friend wishes you to believe, from what Mr. Taitt said, though I think his evidence will bear no such sense;—was there no man up stairs who could have stated it? Was there no man who saw Mr. Frost in the course of that evening that could have stated it? Then what is it that Mr. Taitt says upon the subject? He does not mean to say, that he had not drunk; he says he might be in liquor, and he did say, he did not doubt but he was in liquor, but he had not seen him before. The question

is, whether, when he made use of those expressions, he made use of them as expressing his judgment upon the subject, and with the intent that this record ascribes to him, or whether he was so far bereaved of his judgment by ebriety as to stand before you, entitling himself to the benefit of this excuse, that he ought not to be answerable for the consequences of these acts upon that ground? and it would be extremely strange if a Jury upon this ground could acquit Mr. Frost. Here are these gentlemen *respectable in their situation*, and what have they done? According to what they conceived to be their duty as subjects of the country, they have been furnishing the means of this prosecution, and they have not thought that it would disgrace them, to bring before a Jury of their country Mr. Frost, to relate this story, that he stood in that situation of mind, in which my learned friend's cross-examination would endeavour to place him. Whatever is your verdict, it is contrary to my duty to press for it against your impression of the real nature of the case; but the true question will be (and here I will not avail myself at any length of that privilege my learned friend says belongs to me), whether these words were advisedly spoken? Mr. Frost goes in a public coffee-room, asserts that they were doing very well in France, and at the same time he asserts, that it was because there was a doctrine of Equality, and a doctrine of no King, at that time established;—but was it an Equality such as my learned friend has stated to you? No;—The Equality of right to personal security, to personal liberty and property, and a right to equal laws, was

asserted indeed in the constitution of the year 1789 ; it was an Equality which left every man in possession of that situation which the constitution had assigned him, from the King on the throne to the meanest subject ; who would be equally entitled to the benefit of the law of the country as any man in it ; but that Equality did not live till the 6th of November 1792. —Why then, Equality might mean one thing, or it might mean another ; it might mean the Equality of 1789, or it might mean the Equality of 1792. Then a stranger comes up to Mr. Frost, and feeling a great deal of indignation at hearing this doctrine held, he says, Sir, what do you mean by Equality ? Now did the Duke of Richmond ;—did Mr. Pitt, the present Minister of State, who has been alluded to ;—did my learned friend, and the other persons, who are very respectable men, as I readily admit them to be, did they ever give such an answer as Mr. Frost gave ? I am free to declare this is a country in which every man has a right to his opinion temperately discussed. I am free to say with respect to my learned friend, I believe, he and some of the most respectable persons in the country, have their opinions upon that subject. I believe the actual quantum of political happiness that is enjoyed in this country, is, upon the present system of government, far beyond that which the providence and favour of God has ever dispensed to any nation that ever lived upon the face of the earth. I have never been able to find in the discordant systems of those respectable persons, argument enough to lead my mind to doubt for a moment, whether I should not sacrifice

my duty to my country, if I risked a change upon any principles that they have stated ; but, Gentlemen, do not understand me to say, that I am wiser than they—far from it ; but I say it is my duty to exercise my best judgment, and act according to it.

Gentlemen, what was the answer that Mr. Frost gave ? “ I will tell you what I mean by Equality ; I “ mean no King.” Have any of those gentlemen stated such language ? But this is not all ; for that which is no act of deliberation is followed up by another question : “ Why surely you cannot mean that “ there is to be no King in this country ? ” Says Mr. Frost, “ Yes, no King in any country.” Why, Gentlemen, the single question is, Is it the law of England that these words can be spoken under such circumstances with impunity ? I am free to say, that upon the best information I can give myself upon the subject, I cannot feel a doubt that the law of England does not permit it. I say it is the law of England, that where men will hold language of this sort, they shall be deemed guilty of an offence against the law of England. Why then, what am I to do, if I, standing in this situation, am to govern myself by the wisdom of the law ? I say it is my duty to submit to your decision the fact upon the law as it stands ; if my learned friend is satisfied that the law is not so, he has one course before him, or if he thinks that the law ought not to be so, he has another before him. But is the Attorney General of this country to say, I will, in the regulation of my official conduct, take upon me to say, that I am wiser than the Legislature of this

country ; I will enforce what I please, let the exigency of the country be what it may ?

Gentlemen, in the first place it is to be observed, that the language of that act of Parliament is exceedingly strong with respect to malicious and advised speaking, and it points out to a Jury, that they are to have distinct evidence of the intention. This species of the intention may fall under a different consideration ; but I do not wish to examine it upon a different consideration ; because if in this case the words import the intent that the record attributes to them, you have that case in point of law, that justifies you in finding the Defendant guilty.

Gentlemen, having stated thus much, rather with a view of explaining my conduct to you, than for the purpose of troubling you with particular observations upon the evidence, I will leave the case here. I think, upon the best consideration that I can give the case, that the late Attorney General did right to bring it before the public. I should not have appeared here to-day, if I had not thought it right so far as to bring it before the public ; and the reason I do it is, that when a considerable number of His Majesty's subjects in a *respectable situation* feel—my learned friend says, your verdict is to secure us from being in a situation like France—but when they feel that these words were uttered in a manner that has led them to think, that some of the most valuable blessings they enjoy under the constitution of this country, wedded to it as they are, are in danger when this language is publicly held : I say it is fit, as between the Attorney General and

such persons, that a Jury of the country should say, whether such words shall be spoken with absolute impunity? It does appear to me that they ought not to escape with absolute impunity; but if you have any doubt in your minds, you will find a verdict for the Defendant.

Lord KENYON having summed up the evidence, the Jury retired for an hour and a half, and then returned with a verdict,

GUILTY.

T R I A L
OF
MR. PERRY AND MR. LAMBERT,
EDITOR AND PRINTER OF THE MORNING CHRONICLE,
FOR A LIBEL.

SUBJECT, &c.

THE following Speech for Mr. Perry and Mr. Lambert, the editor and printer of the Morning Chronicle, strongly illustrates our observation in the Preface, concerning the difficulty of access to genuine trials at distant periods.

These Gentlemen were tried for the publication of a libel, on the information of the Attorney General, on the 9th of December, A. D. 1793, and the trial was at the time in very general circulation. Yet it was so wholly out of print, that it made no part of the present work, as originally prepared for the press; but on its being referred to by Mr. Perry in his able defence of himself on a subsequent trial, we procured from him the copy (the only one to be found), from which we have printed the following passages.

The Attorney General's Information charged the Defendants, Mr. Perry and Mr. Lambert, as editor and printer of the Morning Chronicle, with publishing an Address of a society for political information, held at the Talbot Inn, at Derby, which had been sent to the Morning Chronicle for insertion, in the ordinary course of business; neither Mr. Perry nor Mr. Lambert having had any kind of connexion or correspondence with the authors.

This trial being the first after the passing of the Libel Act, we have thought it best to print the whole of it, as originally published, with the Advertisement prefixed to it, by Mr. Perry.

ADVERTISEMENT.

IN presenting the following Trial to the public, at a period the most critical, perhaps, with respect to prosecutions, that ever occurred in the annals of this country, the editor was chiefly influenced by two considerations :

First, the question which arose in an early stage of the proceedings, with respect to juries, determined a very important rule of practice, namely, *that the first special jury, struck and reduced according to law, must try the issue joined between parties.* This decision of a controverted point, in the manner most consistent with common sense, and, as appeared from the pleadings, agreeable to the ancient practice of the Courts, and founded upon the statute law of the realm, is certainly to be estimated as an acquisition of no common magnitude to the subject.

Secondly, this is the first trial, since the Libel Bill passed into a law, completely conducted upon the principles of that bill, and may serve as the best illustration of the wise and excellent provisions of the law, as it now stands, with respect to libel : a law admirably calculated to remove obscurity, to defeat improper influence, to facilitate the ends of justice, by simplifying its operations, and to afford additional security for the full enjoyment of the most valuable privileges of Englishmen.

Impressed then with a view of this trial, as connected with great principles, and involving consequences the most important, both to the present age and to posterity, I have been anxious to render the following

statement of the proceedings as full and correct as possible. Fidelity and accuracy are the only merits of a reporter; these I have carefully studied; it is not allowed to him who transmits the sentiments of others, to boast of his labours, or to claim the reward of public approbation: in this instance, I find myself sufficiently repaid, with the pleasing reflection that I have been called, *in an age of prosecutions* to record *one verdict* gained to the cause of freedom.

We print the parts of the Address selected by the Attorney General from the Information itself, with the innuendos, which run as follow :

“ We ” (meaning the society aforesaid) “ feel too
 “ much not to believe that deep and alarming abuses
 “ exist in the British government ” (meaning His said Majesty’s government of this kingdom); “ yet we are
 “ at the same time fully sensible that our situation is
 “ comfortable compared with that of the people of
 “ many European kingdoms, and that as the times are,
 “ in some degree, moderate, they ought to be free from
 “ riot and confusion. III. Yet we think there is suffi-
 “ cient cause to inquire into the necessity of the pay-
 “ ment of seventeen millions of annual taxes, exclusive
 “ of poor-rates, county-rates, expenses of collection,
 “ &c. &c. by seven millions of people : we think that
 “ these expenses may be reduced, without lessening
 “ the true dignity of the nation ” (meaning this king-
 “ dom) “ or the government ” (meaning the government
 of this kingdom), “ and therefore wish for satisfaction
 “ in this important matter. IV. We view with con-

“cern the frequency of wars” (meaning, amongst
 others, the wars of His said Majesty and his subjects
 with foreign powers); “we are persuaded that the
 “interests of the poor can never be promoted by
 “accession of territory, when bought at the expense of
 “their labour and blood; and we must say, in the
 “language of a celebrated author, we who are only
 “the people, but who pay for wars with our substance
 “and our blood, will not cease to tell kings or govern-
 “ments, that to them alone wars are profitable; that
 “the true and just conquests are those which each
 “makes at home by comforting the peasantry, by pro-
 “moting agriculture and manufactories, by multiplying
 “men and the other productions of nature; that then
 “it is that kings may call themselves the image of
 “God, whose will is perpetually directed to the crea-
 “tion of new beings; if they continue to make us
 “fight and kill one another in uniform, we will con-
 “tinue to write and speak until nations shall be cured
 “of this folly. We are certain our present heavy
 “burdens” (meaning burdens of the subjects of this
 kingdom) “are owing, in a great measure, to cruel
 “and impolitic wars” (meaning cruel and impolitic
 wars entered into by His said Majesty against foreign
 powers), “and therefore we will do all on our part,
 “as peaceable citizens, who have the good of the com-
 “munity at heart, to enlighten each other, and protest
 “against them. V. The present state of the repre-
 “sentation of the people” (meaning the representation
 of the people of this kingdom in the Parliament thereof)
 “calls for the particular attention of every man who

“ has humanity sufficient to feel for the honour and
 “ happiness of his country, to the defects and corrup-
 “ tions of which we are inclined to attribute unneces-
 “ sary wars, &c. &c. We think it a deplorable case
 “ when the poor ” (meaning the poor of this kingdom)
 “ must support a corruption ” (meaning corruption of
 the representation of the people of this kingdom in the
 Parliament thereof) “ which is calculated to oppress
 “ them ” (meaning the poor of this kingdom), “ when
 “ the labourer must give his money to afford the
 “ means of preventing him having a voice in its dis-
 “ posal, when the lower classes may say, We give you
 “ our money for which we have toiled and sweat, and
 “ which would save our families from cold and hunger,
 “ but we think it more hard that there is nobody whom
 “ we have delegated to see that it is not improperly
 “ and wickedly spent: we have none to watch over our
 “ interests, the rich only are represented: the form of
 “ government ” (meaning the government of this
 kingdom), “ since the Revolution, is in some ” (mean-
 ing some) “ respects changed for the worst, by the
 “ triennial and septennial acts ” (meaning acts of the
 Parliament of this kingdom); “ we lost annual Parlia-
 “ ments, besides which, the wholesome provisions for
 “ obliging ” (meaning obliging) “ privy counsellors to
 “ subscribe their ” (meaning their) “ advice with their
 “ names, and against placemen and pensioners sitting
 “ in Parliament ” (meaning the Parliament of this
 kingdom), “ have been repealed. It is said that the
 “ voice of the people is the constitutional control of
 “ Parliament ” (meaning the Parliament of this king-

dom); “but what is this but saying that the representatives” (meaning the representatives of the people in the Parliament of this kingdom) “are naturally inclined to support wrong measures, and that the people most” (meaning must) “be constantly assembling to oblige them to do their duty. An equal and uncorrupt representation” (meaning representation in the Parliament of this kingdom) “would, we are persuaded, save us from heavy expenses, and deliver us from many oppressions; we will therefore do our duty to procure this reform, which appears to us of the utmost importance. VI. In short, we see with the most lively concern an army of placemen, pensioners” (meaning persons holding places and pensions under the government of this kingdom), “&c. fighting in the cause of corruption and prejudice, and spreading the contagion far and wide; a large and highly expensive military establishment” (meaning the military establishment of this kingdom), “though we have a well-regulated militia; the increase of all kinds of robberies, riots, executions, &c., though the nation” (meaning this kingdom) “pays taxes equal to the whole land retail” (meaning rental) “of the kingdom, in order to have his property protected and secured; and is also obliged to enter into separate associations against felonious depredations—a criminal code of laws” (meaning the criminal code of laws of this kingdom) “sanguine and inefficacious—a civil code” (meaning the civil code of laws of this kingdom) “so voluminous and mysterious as to puzzle the best understandings: by which means justice is denied to the poor” (meaning the poor of

this kingdom), “on account of the expense attending the
 “ obtaining it. Corporations ” (meaning corporations of
 this kingdom) “ under ministerial or party influence,
 “ swallowing up the importance, and acting against
 “ the voice of the people ” (meaning the people of this
 kingdom); “ penaltie ” (meaning penalties) “ inflicted
 “ on those who accept of offices without conforming
 “ to the violation of their consciences and their rights,
 “ the voice of free inquiry drowned in prosecutions,
 “ and the clamours of the pensioned and interested;
 “ and we view with the most poignant sorrow a part
 “ of the people ” (meaning the people of this king-
 dom) “ deluded by a cry of the constitution and church
 “ in danger, fighting with the weapons of savages under
 “ the banners of prejudice against those who have
 “ their true interest at heart—we see with equal sensi-
 “ bility the present outcry against reforms, and a pro-
 “ clamation ” (meaning His said Majesty’s royal pro-
 clamation) “ tending to cramp the liberty of the press,
 “ and discredit the true friends of the people, receiving
 “ the support of numbers of our countrymen—we see
 “ the continuation of oppressive game laws ” (meaning
 the game laws of this kingdom) “ and destructive
 “ monopolies; we see the education and comfort of
 “ the poor ” (meaning the poor of this kingdom)
 “ neglected, notwithstanding the enormous weight of
 “ the poor-rates; we see burdens multiplied, the lower
 “ classes ” (meaning the lower classes of the subjects
 of this kingdom) “ sinking into poverty, disgrace, and
 “ excesses; and the means of these shocking abuses
 “ increased for the purpose of revenue for the same,
 “ and the excise laws ” (meaning the excise laws of

this kingdom), “ those badges and sources of oppression,
 “ kept up and multiplied ; and when we cast our eyes
 “ on a people just formed in a free community, with-
 “ out having had time to grow rich under a govern-
 “ ment by which justice is duly administered, the poor
 “ taught and comforted, property protected, taxes few
 “ and easy ; and at an expense as small as that of our
 “ pension list—we ask ourselves, are we in England ?
 “ Have our forefathers fought, and bled, and conquered,
 “ for liberty ? And did they not think that the fruits
 “ of their patriotism would be more abundant in peace,
 “ plenty, and happiness ? Are we always to stand
 “ still, or go backward ? Are our burdens ” (meaning
 the burdens of the subjects of this kingdom) “ to be
 “ as heavy as the most enslaved people ? Is the con-
 “ dition of the poor ” (meaning the poor of this king-
 dom) “ never to be improved ? Great Britain must
 “ have arrived at the highest degree of national hap-
 “ ness and prosperity, and our situation must be too
 “ good to be mended, or the present outcry against
 “ reforms and improvements is inhuman and criminal ;
 “ but we hope our condition will be speedily improved,
 “ and to obtain so desirable a good is the object of
 “ our present association, an ” (meaning an) “ union
 “ founded on principles of benevolence and human-
 “ ity, disclaiming all connexion with riots and dis-
 “ orders, but firm in our purpose, and warm in our
 “ affections for liberty. VII. Lastly, We invite the
 “ friends of freedom throughout Great Britain to form
 “ similar societies, and to act with unanimity and firm-
 “ ness, till the people ” (meaning the people of Great

Britain) “ be too wise to be imposed upon, and their
 “ influence in the government be commensurate with
 “ their dignity and importance ; then shall we be free
 “ and happy. By order of the society, S. Eyre, chair-
 “ man ” (meaning the chairman to the said society).

IN Trinity Term a Rule was made in the usual way, on the motion of the Prosecutor, for a special jury. Forty-eight jurors were struck ; and in Easter Term they were reduced by the parties to twenty-four. In the sittings after Easter, the cause came on, and seven of the special jurors came into the box. Sir John Scott, the then Attorney General, did not pray a tales, and the trial went off as a *remanet pro defectu juratorum*.

In Michaelmas Term the Prosecutor, on a motion of course, took out a rule for a new special jury. This the Defendants thought irregular.

On Friday, the 15th day of November, the Hon. *Thomas Erskine* moved the Court as follows :

My Lord, the motion which I am about to address to the Court, will deserve your Lordship’s particular attention, as it relates to one of the most essential rights and liberties of the subject, the trial by jury.

Your Lordship may recollect, that at the sittings after the last term in this place, an information, filed by the Attorney General, against the proprietors and printer of the Morning Chronicle, for a supposed libel

in that newspaper, was called on for trial in the ordinary course of things. Seven of the special jurors, struck under the rule obtained by the Crown itself for the trial of the cause, appeared, and came into the box to be sworn; but the Attorney General did not think proper to pray a tales to complete the pannel.—The cause, therefore, of course, went off, *pro defectu juratorum*.

My Lord, if any special reason existed why the jury so appearing should not be permitted to try the Information when it came on again for trial, and the Crown had moved upon such special matter, verified by affidavit, to discharge the original rule under which the jury was appointed, I should, according to the nature of the objections, have been prepared to give them an answer. But, my Lord, no such proceedings have been had or attempted. The Crown has made no objection to the jurors, nor any motion in Court to discharge the original rule under which the jury was impannelled: but assuming it to be the law that the rule was spent and expired, by the trial going over, for defect of jurors, they have, as a motion of course (drawn up under the signature of counsel out of Court), obtained a second rule for striking a jury, as if no former rule had ever existed, and as if no jury had been struck under it.

I confess I was not a little surprised at this attempt to impanel a jury, without the consent of the Defendants, between whom and the Crown the former had been reduced and ascertained under the first rule.—On their part, I therefore now object to the pro-

ceeding, as totally illegal and hostile to the freedom of trial; and I humbly move that this new rule may be discharged.

I do not know that I am able to state, at this moment, any direct precedent for my motion, nor is it necessary that I should, because I found my application upon the whole statute law of the kingdom respecting the trial by jury, which is positive and unequivocal on the subject, which no practice can shake, and which no decisions of the Court, if there were any, could repeal or overrule.

Lord Kenyon. The application crosses all my ideas of the law upon the subject. It would be highly dangerous to impartial trial, if the juries were known to the parties so long before the trial. It is very strange if the law be so.

Mr. Erskine. My Lord, the authors of our laws seem to have thought very differently on this subject. They seem to have entertained no jealousy, that the trial by the country, which was instituted for the people's protection, could ever be too favourable to them; on the contrary, the most ancient statutes of the kingdom express no fears for the Crown, but for the subject only, and provide that jurors shall be struck so long before the day of trial, that the Defendant may know them, and be prepared to take his challenges. The Act of the 42nd of Edward III. chap. 11, expressly gives this reason. After stating that divers of the people had been disheartened and oppressed, from not having had knowledge beforehand of those who were to pass in the inquest, it enacts,

that the names of the jurors should be returned into Court in the term before the assizes, and that, in the mean time, the parties, on demand, should view the same.

The whole statute law, from that period, speaks the same language, down to the famous statutes of King William and Queen Anne, which give to Defendants, accused of high treason, the names and abodes not merely of the jurors, but of the very witnesses to be examined against them on the trial. So far, indeed, is it from being true, that, by the common law, a jury, once summoned, and not attending, could not be distrained again to appear at a future day, as is supposed by Mr. Justice Page, in Masterman's note, that they were bound to give their attendance from assizes to assizes, *in infinitum*, until the reign of William the Third.

The statute of the 13th Edward I. chap. 30, had expressly directed, that, upon the default of jurors, the justices should put in the inquest no other than those first summoned; and this regulation was so much the settled law, that *the act of William, for the ease of jurors, and the regulation of trial*, recites, that, as the law then stood, it often happened that upon causes going off at the assizes, for defect of jurors, the same jurors were obliged to attend again and again at the trial of one and the same cause, to their great expense and trouble; and after this preamble, a new *venire facias*, for the first time in the history of the law, was given to the parties, to bring in a new jury, upon the default of those impannelled under the first writ. It

is therefore only by the effect of this statute, that a jury, once summoned, is discharged before trial; and the statute not extending, nor indeed relating at all to special juries, they remain upon the old footing. Special juries do not exist, as many people seem to suppose, by the authority of a statute; on the contrary, they are as ancient as the law itself, and were always struck, as they are at this day, by direction of the Court, when trials were had at the bar and not at *nisi prius*; the act of the 3d of George II. chap. 25, having no relation to such juries, except as it removes a doubt with regard to the legality of striking them for the trial of misdemeanors. This legality the statute recognises; and putting special juries, struck in the Crown Office, on the same footing with those in civil cases, directs them to be struck by rule, as they anciently were in cases of trial at bar, and enacts, that *the jury so struck, shall be the jury to try the cause.*

Indeed, so notorious is it, that a jury summoned, and not attending, could be distrained to appear again (till the law, as far as it related to common juries, was altered by the statute of King William),—that we know that the whole jury process of the Courts at this day is founded upon that law; for the *venire* is always returnable on the last day of the term before trial, at which day it is entered on record, as of course, that default was made by the jurors summoned; and then the *distringas* issues to bring them in on the day in banc, in the term following, unless the Justices shall come to the assizes in the interval; under which clause of *nisi prius*, the trials are all had.—So that the pro-

cess at this day, building fiction on reality, to give precision and uniformity to practice, ratifies that which is supposed now to have been contrary to all practice whatsoever. In ancient times, every man, in a civil cause, knew, upon the return of the *venire* in term, the jury that was to come at the assizes.—The Sheriff now, by the act of the 3d of George II., returns one pannel for all, which effectually prevents a defect of jurors; but special juries remain untouched by that statute. The reason and justice of the thing moreover support my construction. The Attorney General alone can pray a *tales* in a criminal cause; for the statutes go no farther than to give Defendants a right to pray the *tales* in penal actions, prosecuted *qui tam* with the Crown, but not in cases where the Crown is the prosecutor alone. It is true that the Attorney General now grants his warrant of course to a Defendant to pray one, but he may legally refuse it; and the subject's liberties are not to rest upon the courtesies of the officers of the Crown. What, then, is contended for in this right to change the jury? Why, nothing short of this, that if the Attorney General does not like his jury, he may forbear to pray a *tales* himself;—he may also refuse his warrant, without which the Defendant cannot pray one; and this he may do, *toties quoties* until he has got a jury to his fancy. I am not arguing that Mr. Attorney General is likely to attempt this practice for such purposes; but the country is not to hold its rights upon the courtesy of the prerogative, or the honesty of those who may occasionally represent it.

Mr. Erskine then proceeded to state the modern

cases, which clearly showed that the practice of the Court bore him out in the law on the subject. He stated the *King v. Hart*, and the *King v. Joddrell*; but he relied implicitly, he said, on the law.

One of the officers of the Crown Office handed up to Mr. Justice Buller, an opinion of Judge Page, in the 13th of George II., that a new jury ought to be granted; but Mr. Justice Buller said, the Defendants should take a rule to show cause, as it was of great importance to be argued and ascertained.

Lord Kenyon said, he thought it scarcely necessary; but granted they might take a rule. A rule was therefore granted.

On Monday, the 25th of November 1792, the rule came on to be argued.

Mr. Bearcroft, on the part of the Crown, contended that the cases cited by Mr. Erskine were not in point. In the case of the *King* against *Hart*, the special jury of forty-eight had not been reduced to twenty-four by the parties, and the jurors had not come into Court. In the case of the *King* against *Joliffe*, the cause had been put off on account of some publications, which might have influenced the jury. In the next term, a new jury was struck, so that the case was in point for the Crown, and it was so much the more so, as the new jury was moved for by a solicitor as well versed in the general practice as any solicitor of that Court. Their Lordships would agree with him in this description, when they heard that the solicitor for the Defendant in that cause was Mr. Lowten, and he was solicitor also for the present Defendants. In that cause, then,

Mr. Lowten had moved for a new trial, and here he opposed a new jury.—[Mr. Bearcroft was set right in the case of Joliffe. In that instance the trial first went off, because, from the publications which had been made, the Court thought that the jury might be influenced. In the term after this, the cause came on again, and both parties agreed to have a new jury. A second time it was put off, through the delicacy of Mr. Justice Gould; and on the third time it was brought on again, and the Prosecutor moved for a new jury, without any pretext of influence, or of any other argument for a new jury. This, Mr. Lowten, as solicitor for the Defendant (and who had not been employed in the beginning of the cause), objected to, and the Court *refused*.]

Mr. Bearcroft read from the notes of the late Mr. Masterman, one of the secondaries of the Crown Office, a case, where it was his opinion, that a new jury was conformable to the practice; and he quoted also a cause against Lord Charles Fitzroy, where Mr. Lowten had also, as solicitor for the Defendant, moved for a new jury, and had succeeded; but he owned, that in this case it had been consented to by both parties.

Mr. Bearcroft then said he would argue the question on the *reason* of the rule. It struck him as a most important point indeed, that juries should not be continued from term to term, as they might be tampered with by the parties; a thing so outrageous to justice, and so opposite to the spirit of our jurisprudence, that it had been ever the study of the Courts, and indeed the very aim of Parliament, in making the statute of

the 3d of George II. to prevent juries from becoming permanent, or from being so long known beforehand, as to be subject to influence. That in regard to the prayer for a *tales*, though undoubtedly the Defendant must have the *warrant* of the Attorney General to enable him to pray a *tales*, yet the Attorney General never denied such a warrant. Another argument against the continuance of a jury was, that it must subject gentlemen to great inconvenience—they never would know when they were to be discharged. Here seven of them attended to do their duty, and they were again to be called upon; eleven of them might attend, and still be subject to be called again: there was no end of this, and he owned he did not know how they could call upon them again, for he did not know an instance of an *alias distringas* to bring up special jurors.

Mr. Adam stated, on the part of the Defendants, that there were many instances in the books, especially in Brooke's Abridgment, where an *alias distringas* had gone to compel the attendance of jurors of all descriptions.

Mr. Justice Buller said, that as this case comprehended so important a rule of practice, he had taken pains to inform himself on the point, and he had found a case which, in his mind, determined the rule. He would read it, and then *Mr. Bearcroft* would see what he could make of the argument. *Mr. Justice Buller* then read a manuscript note of the case the King v. Franklin, the publisher of the famous paper called the *Craftsman*. It was important to remark the time and the Judges—it was the 5th of George II. only

three years after the law recognising special juries in misdemeanors had passed, and the Judges on the bench were Mr. Justice, afterwards Lord Chief Justice Lee, Mr. Justice Page,* &c. ; and the Crown lawyers were men of the first eminence. Franklin was convicted of printing and publishing a libel in the Craftsman. The case was only so far different from the present, that the Defendant there moved the Court to reverse the judgment, because the cause, after being put off from one term to another, had not been tried by a new jury. Here the Defendants moved to continue the same jury. The doctrine was the same in both cases, only that in this case, it is upon the application of the Attorney General that the new jury is required ; in that case the Attorney General or the Crown contended that the old jury should continue. Chief Justice Lee pronounced the opinion of the Court, which Mr. Justice Buller read. The opinion of the Court was, that the words of the statute were express, and could not be departed from, unless cause could be shown that there had been some irregularity in the striking of the jury, or in the reducing, or in some part of the proceeding, or in the writ of *venire*, or otherwise. The words of the statute were, “ that the jury so struck and so reduced, shall be the jury to try the issue joined in “ such cause.” The jury were not dissolved until the cause was determined, and an *alias distringas* might issue. The opinion was at great length, and detailed the practice of striking juries by the ancient statutes

* The same Judges who are supposed to have decided the case of the King against Waring.

downwards, and showed, that by the act then recently passed, the 11th of Geo. II. the alteration with respect to juries related only to the common jury, and left the practice as to special jurors exactly as it stood by the ancient law, except as it declared that special jurors might be demanded by the Crown in cases of misdemeanor. In regard to common juries, it was thought hard and severe to compel their attendance from time to time; but the special jury was left by that act precisely as it stood before.—This opinion, Mr. Justice Buller said, delivered so soon after the act had passed, so solemnly and argumentatively, in a question discussed by such great legal characters, must in his mind, determine the question. He concluded with saying, that he could not see how the Crown officers could go on without creating error on the record.

Lord Chief Justice Kenyon said, he must bow to such great authority, though the inclination of his disposition was the other way. But a point so solemnly argued (and where such a man as Mr. Pulteney, Earl of Bath, being implicated, error *would* have been pleaded, if they could have found error on the record), must decide the present case. He made no inquiry at all, and did not take into his consideration the merits of the question at issue between the present parties; but it was, in his opinion, of the utmost interest to criminal jurisprudence, that juries should not be subject to influence. It was that consideration which gave rise to the law for the balloting-box. Every lawyer knew the necessity that there was for that statute; as all the provisions which had been previously made to

guard against influence, had proved ineffectual, though any person convicted of trying to influence jurors, was subject to a penalty of ten times the amount of the object at issue in the cause. What held good as to civil suits was equally applicable to criminal prosecutions. The principle of the balloting-box was equally applicable to both ; but it was impossible to resist the precedent, standing as it did upon so high authority.

Mr. Justice Grose and *Mr. Justice Ashurst* were of the same opinion.

The case of the *King v. Franklin*,* therefore,

* In consequence of that case, viz. *the King v. Franklin*, it became unnecessary for *Mr. Erskine* and *Mr. Adam*, as counsel for the Defendants, to say any thing on the part of the Defendants ; but it may not be unacceptable to know, by a short statement, how far the old practice confirms the good sense and authority of the case *the King v. Franklin*.

Special juries existed long before the statute of the 3d Geo. II. by the act of the parties ; and that as well in misdemeanor as in other cases. One party applied for a special jury, and the other party consented ; so that the special jury was then the result of compact between the parties. But when the parties had so contracted, the authority of the Court was necessary to give validity to the compact. Accordingly the Court, upon application, made a rule for a special jury ; and that rule ran in the same words before the statute, that are used now since the statute : an observation very material, especially in considering the last words. The rule ordered then, and it orders now, that 48 shall be returned ; that the Prosecutor shall strike 12 and the Defendant 12 ; *and that 24, the remainder of the 48, shall be the jury returned for the trial of the issue joined in that cause.*

This being agreed between the parties, and enforced by a rule of Court, the parties, before the statute, chose their forum, and by this forum, their own compact and the authority of the rule of Court

decided this question ; and the Court determined, that the rule for another special jury, obtained upon

compelled them to abide ; insomuch, that they could not get quit of the jury by the common mode of *challenging the array* ; that is, challenging the whole pannel of jurors : such challenge, after the rule of Court, being deemed, like every other breach of the authority of the Court, a contempt, by the party who should so challenge.

This had met with a decision in several cases, but particularly in the case of the King v. Burrige, for a misdemeanor, which came before the Court of King's Bench, in Trinity Term, 10 Geo. I. a very short time before the passing of the act respecting special juries.

That case is reported in Lord Strange's Reports, vol. i. p. 593 ; in Lord Raymond, 1364 ; in Andrews's Reports, 52 ; in Eighth Modern Reports, 245 ; and in many other books ; and the case, as reported in all of them, not only confirms the argument and statement above given, but explains the only remaining difficulty in the case, viz. the meaning to be put upon the words in the rule of Court, *that the 24 shall be the jury returned for the trial of the issue in that cause.*

For the Judges, in the reports given of their opinions, consider as synonymous, and meaning the same thing, the above phrase ; and that they shall be the jury who shall actually try the cause ; contrary to the construction contended for by the Crown, on the present occasion, where it was pressed that the statute and the rule were both satisfied, when the jury had been returned, although they had not actually tried the cause.

Soon after this case, that is, in the 3d Geo. II. came the statute ; and it is very material to observe, that the statute transcribes verbatim the latter words of the rule used before the statute. Therefore whatever was the construction of those words in the rule, the same must be their construction in the statute. It has been shown in what sense the Judges considered the words in the rule, and it will not be contended that the words in the statute, " which said jury, " so struck, shall be the jury returned for the trial of the said issue," can bear a different construction. There is, therefore, judicial autho-

the motion of the Crown lawyers, must be discharged.

rity, added to that of common sense, to settle the meaning of these words. The only other consideration in this case is, what change the statute made in the rights of the parties, if it made none from the words of the rule; and it is evident, that it did no more than convert into a statutory obligation, carried into execution by a rule of Court, what had been a matter of compact, executed by a rule of Court; but that in all other respects, except that the one party was, after the statute, bound to agree to a special jury, if the other proposed it, the consequences were the same.

The disobedience to the rule remained a contempt, and the rule remained valid, unless the Court, for particular cause of corruption, or undue interference, properly verified, should see ground to have another jury; but that otherwise, the jury of compact or statute must continue.

This was the more material, because of the Attorney General's power to refuse the Defendant a warrant to have a *tales*, to make up the special jury, if deficient, out of the common jury; which was so far from being an idle right, as mentioned by Mr. Bearcroft, that there was a case in which it was solemnly agitated, and which formed a ground of decision that the Attorney *could* and *ought*, in certain cases, to exercise the right. The King v. Jacob Banks, Sixth Modern Reports, p. 246, as follows:

And as to another objection that was made, "that such a course, "if tolerated, would be of great mischief; for then most profligate "offenders would get themselves acquitted by surprise, or over- "hastening the trial, without allowing the Queen convenient time to "manage her prosecution:"

It was answered, "that there could be none, because in Crown "causes there cannot be *nisi prius* or *tales*, without a warrant from "the Attorney General, *who shall be sure to grant none if he find* "any such danger." And that such a thing may be, at least by consent, appears 1 Keb 195. Rex. v. Jones. And the granting a *nisi prius* amounts to a consent.

On the 9th of December, 1793, the cause having been called on for trial, Mr. ATTORNEY GENERAL opened the case for the Crown as follows :

GENTLEMEN OF THE JURY,

THE Information charges the Defendants with having printed and published a seditious libel, the contents of which you have now heard stated. The Information originally was not filed by me, but by my predecessor in office, who then was, as you now are, sworn to discharge an important duty to the public, according to the best of his judgment. It has since fallen to my lot to execute that duty, in stating to you the grounds upon which this Information has been filed. And I have no difficulty in saying, that, previous to my coming forward for this purpose, I thought it incumbent upon me to consider, whether in the office which I now hold, I should, of my own accord, have instituted this prosecution; because I thought that it became me not merely to follow up the measures of that highly respectable character, and to bring his opinion before a Jury, but to be able, in so doing, to say that I approved of those measures, and concurred in that opinion; and to act exactly as he had done, according to the best of my judgment, for the public. Had I been clearly of opinion that this paper was not fit for the consideration of a Jury, I have no hesitation in confessing that I should certainly have discontinued the prosecution. You, Gentlemen of the Jury, I am sure, will do me the justice to believe that I am not capable of the impertinence

of saying, that because I may think this paper fit for prosecution, and may think the Defendants guilty, you therefore must think so too. The prosecution does nothing more than declare, that the paper is a proper subject for the discussion of a Jury, and as such, that I consider myself as bound to bring it forward in the course of my professional duty. With respect to the guilt or innocence of the Defendants in publishing this paper, that question which falls to your consideration, I am perfectly satisfied to leave to your decision. This is a cause of the highest importance, as indeed, every cause which involves a criminal charge must be important, but this more particularly so from the nature of the charge. It is connected with the press, which has ever been deemed the great palladium of British freedom. In every case in which it is concerned, it is natural, therefore, that the most watchful attention of Englishmen should be excited. It is of great consequence, then, in the first instance, to ascertain what properly constitutes the liberty of the press;—what are its bounds, and how far it extends;—and on this subject I shall take the liberty of reading to you the sentiments of a character of the highest legal authority, namely, the late Mr. Justice Blackstone.

“ In this and the other instances which we have
 “ lately considered, where blasphemous, immoral,
 “ treasonable, schismatical, seditious, or scandalous
 “ libels are punished by the English law, some with a
 “ greater, others with a less degree of severity, the
 “ *liberty of the press*, properly understood, is by no

“ means infringed or violated. The liberty of the
“ press is indeed essential to the nature of a free state ;
“ but this consists in laying no *previous* restraints upon
“ publications, and not in freedom from censure for
“ criminal matter, when published, Every freeman
“ has an undoubted right to lay what sentiments he
“ pleases before the public, to forbid this is to destroy
“ the freedom of the press ; but if he publishes what
“ is improper, mischievous, or illegal, he must take
“ the consequences of his own temerity. To subject the
“ press to the restrictive power of a licenser as was
“ formerly done, both before and since the Revolution,
“ is to subject all freedom of sentiment to the preju-
“ dices of one man, and make him the arbitrary and
“ infallible judge of all controverted points in learning,
“ religion, and government ; but to punish (as the
“ law does at present) any dangerous or offensive
“ writings, which, when published, shall, on a fair and
“ impartial trial, be adjudged of a pernicious tendency,
“ is necessary for the preservation of peace and good
“ order, of government and religion, the only solid
“ foundation of civil liberty. Thus the will of indi-
“ viduals is left still free ; the abuse only of that free
“ will is the object of legal punishment. Neither is
“ any restraint hereby laid upon freedom of thought
“ or inquiry ; liberty of private sentiment is still left ;
“ the disseminating or making public of bad senti-
“ ments, destructive of the ends of society, is the crime
“ which society corrects. A man (says a fine writer
“ on this subject) may be allowed to keep poisons in
“ his closet, but not publicly to vend them as cordials.

“ And to this we may add, that the only plausible
 “ argument heretofore used for the restraining the just
 “ freedom of the press, ‘ that it was necessary to pre-
 “ vent the daily abuse of it,’ will entirely lose its force,
 “ when it is shown (by a a seasonable exertion of the
 “ laws) that the press cannot be abused to any bad
 “ purpose, without incurring a suitable punishment ;
 “ whereas it never can be used to any good one, when
 “ under the control of an inspector. So true will it be
 “ found, that to censure the licentiousness, is to main-
 “ tain the liberty of the press.” *

These principles of the law of England, thus laid down by this great man, must be admitted to be incontrovertible. The law allowed Defendants in this, as in every other case, a fair impartial trial, upon the result of which they were to be adjudged guilty or acquitted of the charge exhibited against them ; and this principle has been explained by the last Act of Parliament, for removing doubts of the functions of juries in cases of libel ; the meaning of which Act I take to be, that the jury shall try these charges of libels precisely as they try any other charge of a criminal nature ;—that they shall hear the case with attention, and hear it impartially ;—that they shall hear the advice of the Bench in point of law, and then apply the law, as they understand it, to the facts that appear in evidence, and then they shall acquit or find guilty, as to them shall appear right. The question in this case is, “ Whether, upon the facts, as they shall appear in

* Blackstone’s Commentaries, vol. iv. page 151, 8vo. edition, 1791.

“ evidence, under the law, as you shall understand it,
“ after the advice of the learned Judge, the Defendants
“ be guilty, as the Information charges them to be ?”
With respect to the fact, the paper stated in the Information, appeared in the Morning Chronicle on the 25th of December, 1792. And here I must particularly beg the attention of the Jury to the date of the libel. This paper charged to be the libel, is dated at the Talbot Inn, at Derby, on the 16th of July, 1792, and it did not appear in the Morning Chronicle till the 25th of December, 1792. Thus you will observe that the date of the paper preceded its appearance in the Morning Chronicle six months. Having said this upon the paper itself, it is now my duty to the Defendants to state, that it appeared not to be a publication actually composed by the Defendants, but was said to be, with what truth I do not know, composed and agreed to at a Society for Political Information, held at the Talbot Inn, Derby, signed S. Eyre, chairman. Whether there was such a person, or, if there was, whether he was the author, is to me entirely unknown. It was said to be unanimously agreed to by the persons holding the meeting, and ordered to be printed ; how it happened that that order was not executed till the 25th of December, I am unable to explain to you. But be that circumstance as it may, the Defendants are the persons interested in the property and management of the newspaper in which this publication appeared. And I apprehend that the proprietors, printers, and publishers of a newspaper are responsible for whatever it may contain, unless it be admitted as a

doctrine, that men may carry on a trade, which is a source of great profit and emolument, entirely through the medium of servants, without being themselves in the smallest degree accountable. Can it be deemed a sufficient apology for the evil tendency of a publication, of which they reap the advantage, that they are not its authors, or that they had no immediate hand in its insertion, and therefore are not bound to answer for what they themselves did not actually commit? On the contrary, I apprehend, that by adopting any publication, they become liable in law for the consequences of that publication, as much as if they were themselves the authors. It is true, that there are many circumstances to be considered, either by me in moving judgment, or when it comes to be determined by the Court, what ought to be the nature and extent of the penalty. The consideration of the degree of guilt incurred by the particular act, might then be attended to, independent of the law of the case. Negligence, omission, inadvertence, all of which, however, constituted a degree of criminality, might then, perhaps, properly be urged as circumstances of extenuation. Though this paper, therefore, appeared in the Morning Chronicle, not as the projected act of the Defendants, or of either of them, but as an advertisement signed by a Mr. Eyre, still it was a publication for which the Defendants, in their capacity, as connected with this paper, were clearly answerable. Another circumstance which deserves your attention, is the time at which this advertisement was brought forward; you will find in the same paper in which it appeared, a vast number

of advertisements from various associations in different parts of the kingdom, stating that there had lately been many seditious writings circulated with the greatest industry, and from the worst intentions, which had already done much mischief, and expressing a determination to take every method in future to discountenance and suppress such publications. You are then to consider how far these advertisements might operate as an antidote to the statement contained in this publication, you are to take into review the whole of the paper and advertisements, that you may be able to judge fairly of the tendency of the contents, and the intention of the writers ; you will then decide whether this paper was published with a peaceable temper, and from upright intentions. I have nothing to say, in order to exaggerate the case, or influence your decision ; I have never had occasion to do so in any instance ; it is neither my duty nor my wish in the present, and I trust that no man in my situation will ever do so upon any future occasion. All cases of which the law takes cognizance, and which are to be determined by ascertaining facts, and applying the law to them, are, thank God, safe in the hands of a Jury, the best guardians of our rights. Every thing in this country that deserves to be called a blessing, is indisputably deposited in their hands, as well as the power to apply a remedy, wherever their interference is called for to check the progress of an evil. It is from our blessings being vested in their hands, that we derive our security for their enjoyment, and our confidence in their duration. It is for you, Gentlemen of the

Jury, exercising your privilege in its full extent, from the facts which I shall now lay before you, to judge of the tendency of this paper, which is the subject of prosecution; from the Bench you will hear laid down from the most respectable authority, the law which you are to apply to those facts. The right of every man to represent what he may conceive to be an abuse or grievance existing in the government of the country, if his intentions in so doing be honest, and the statement made upon fair and open grounds, can never for a moment be questioned. I shall never think it my duty to prosecute any person for writing, printing, and publishing fair and conscientious opinions on the system of the government and constitution of this country; nor for pointing out what he may honestly conceive to be grievances; nor for proposing legal means of redress. But was this the case with respect to the present publication? Did the mode in which the writers exposed what they considered as the abuses of the constitution, indicate a peaceable temper, or honest intentions, and a desire only to obtain redress by legal and constitutional means? Did not this paper, on the contrary, describe the whole system as one mass of abuse, grievances, misery, corruption, and despair, not so much as bringing forward one alleviating circumstance, or affording even a ray of hope? [Here Mr. Attorney General read some extracts from the paper.] It attacked the government in every branch, in its legislature, in its courts of justice, which had ever been deemed sacred, and, in short, represented all as equally corrupt and oppressive. There was no circumstance mentioned fairly that the public might be left to judge

freely upon their situation. What could be the tendency of such a representation, but to excite murmurs and inflame discontent, without effecting one good purpose? If a man wishes to state honestly what he conceives to be a grievance, let him do it candidly, and propose what he conceives to be the proper means of redress. Let him not take one side of the picture only, or confine himself entirely to an unfavourable view of the subject, but let him balance the good with the evil, let him enumerate the blessings as well as the inconveniences of the system, and while he points out abuses and errors, not forget, likewise, to enumerate wise and salutary regulations; such conduct only can answer the purposes of candid and useful discussion. The contrary conduct adopted in this paper can only have a tendency to unsettle men's minds, and stir up sedition and anarchy in the kingdom. I never will dispute the right of any man, fully to discuss topics respecting government, and honestly to point out what he may consider as a proper remedy of grievances; every man has a right so to do, if the discussion be fairly and temperately conducted; I never will stand against such a person, even though I should differ with him in my opinion of the grievance, or disapprove of the proposed means of remedy. But when men publish on these points, they must not, as in the present instance, do it unfairly and partially; they must not paint the evil in the most glowing colours, while they draw a veil over the good. The writers of this paper in describing the government of this country as productive only of one scene of misery, must have acted contrary to their own know-

ledge of its blessings, and in opposition to the sense which they could not but perceive was entertained by the people at large of the happiness of their condition. To what motives, I will ask, can such a representation be ascribed, or what are the effects to which it is naturally calculated to lead? Are the motives such only as can be set down to fair and honest intention, and the effects only such as can terminate in a legal and peaceable line of conduct? We are to consider too, that this mode of representation is adopted with respect to a constitution which has been the admiration of the wisest and best men in all ages, who have thought it barely possible that a constitution should exist so nearly approaching to a model of perfection. It is a constitution under which a greater degree of happiness has been enjoyed than by the subjects of any government whatever; and the sense entertained of its blessings depends not upon the vague results of theory, but the solid conviction of experience.—These blessings have, in a great measure, sprung from the properly regulated freedom of the press; a freedom, therefore, which it is more dangerous to abuse; and on maintaining that freedom on its proper principles chiefly depends our security for the enjoyment of those blessings. That this country has enjoyed a greater sum of happiness under its present constitution than any other, depends not merely upon the testimony of our own experience; let us recur to the evidence of history, we shall be more deeply impressed with a sense of our present felicity; let us take a view of the situation of the subjects of the other European governments, we

shall be more strongly convinced of the superiority of our own. What then do the writers of this paper mean, when they say, “that we feel too much not to believe that deep and alarming abuses exist in the British government; yet we are at the same time fully sensible, that our situation is comfortable compared with that of the people of many European kingdoms: and that as the times are in some degree moderate, they ought to be free from riot and confusion?”—Let this paragraph be taken by way of illustration. When they talk of our situation being comfortable compared with *many* European kingdoms, what need, I will ask, for this qualification? Is there any European government that in point of real liberty and actual comfort can be compared with the British constitution? In this country we have the fullest security for the possession of our liberty and the enjoyment of our property, the acquisition of which must be the greatest spur to every honest and laudable exertion.—But on the 25th December, 1792, while this country was actually experiencing the blessings resulting from its admirable constitution, the principles which this paper seemed to recommend were producing very different effects in a neighbouring country. The effects which had there been produced did not surely hold out to British subjects any encouragement, to adopt a system of experiment and innovation. The result of this in my mind, is, that no man should be at liberty, without a specific object, to state truly or falsely what appears to him to be a grievance merely for the purpose of exciting a spirit of general discontent,

which I will venture to say never can be called into action without endangering the public prosperity and happiness. We have always been in the habit of regarding the Revolution as the greatest blessing that ever befell this country. But how do the writers of this paper reason with respect to this event? They enumerate all the abuses which they pretend have since crept into the constitution, while they mention none of the many improvements which have taken place since that period. Is this, I will ask, a fair mode of stating the question? Besides, they show themselves ignorant of that Revolution, by talking of the annual parliaments which we then lost. What was the end of all this? The cause of truth and justice can never be hurt by fair and temperate discussion; if you, Gentlemen of the Jury, consider this paper as coming under that description, you will of course acquit the Defendants. Look at the beginning and conclusion of their paper. You will find that they set out with declaring *that they are in the pursuit of truth in a peaceable, calm, and unbiassed manner; and from an opinion that the cause of truth and of justice can never be hurt by temperate and honest discussion, that they claim the right to associate together merely for the communication of thoughts, the formation of opinions, and to promote the general happiness.* You will find that they conclude thus: “We hope our condition
 “will be speedily improved, and to obtain so desirable
 “a good is the object of our present association; an
 “union founded on principles of benevolence and
 “humanity; disclaiming all connexion with riots and

“ disorder, but firm in our purpose, and warm in our
“ affections for liberty.” It is with you to decide whether you think the general tenour of this paper consistent with the principles assumed at the beginning and asserted at the end. If you shall judge that it contains matter very inconsistent with these principles, you are then to consider whether, in a case like this, *humble language ought to ransom strong faults*. If you shall be clearly of opinion that the paper has a different tendency from that which is professed in the outset and conclusion, and that the Defendants themselves were aware of this tendency, you are then bound by your oath, and by the law of the country, to find the Defendants guilty. Once more, as to the contents of this paper; you will find that the taxes are loudly complained of, but that not a word is said of the general wealth and prosperity of the kingdom. But let a deduction be made of the national taxes from the amount of the national wealth, and I am confident that this country will appear in a higher state of opulence and prosperity than it ever was at any former period. What purpose then can such partial and unfair statements answer, except to inflame the discontented and encourage the seditious? Whatever I have said of the tendency of this paper, I have stated only as my own opinion; it does not follow that the Society at Derby might not view the subject in a very different light. All that my duty demands is, solemnly to declare that I considered this prosecution, though not originating with myself, as a proper case to be submitted to the consideration of a

Jury. You have now heard from me almost all that I intended to say at present, or thought necessary to submit to you, except what may fall from my Learned Friend shall require me to add some farther observations in reply. You will hear from the evidence all the facts which the Defendants have to urge in their own justification, and from his Lordship all that shall appear to him to be the law on this subject. I now leave the matter to your decision. If you think the Defendants ought to be acquitted, I shall retire from the Court with a full conviction, not inconsistent however with that respect which I owe to your decision, that in bringing this matter before you, I have acted according to the best of my judgment.

Mr. Wood, the junior Counsel on the part of the prosecution, was then proceeding to call witnesses, and *Mr. Berry* was called, when the Counsel for the Defendants said he was instructed to save the Court all this trouble, as the Defendants were anxious to try the question on its own merits. As Counsel for the Defendants, he therefore admitted that *John Lambert*, charged in the Information as printer of the Morning Chronicle, was in fact printer of that paper; that the paper was purchased at the printing-house; and that the Defendants, James Perry and James Gray, charged in the Information as proprietors of the same paper, were in fact so. If these were the facts meant to be ascertained by witnesses, they would spare the Court unnecessary time and trouble, by admitting them fully and unequivocally.

The Attorney General said these were all the facts they meant to establish by proof; he thanked his Learned Friend for the admission.

The Honourable THOMAS ERSKINE then rose for the Defendants.

WITH the two gentlemen charged in the Information, as proprietors of the Morning Chronicle, I have been long and well acquainted. Of Mr. John Lambert, who conducts the mechanical part of the printing business, I have no personal knowledge; but from my intimate acquaintance with the other two, I have no difficulty in saying, that if I had in my soul the slightest idea that they were guilty, as charged in the Information, of malicious and wicked designs against the state, I should leave the task of defending them to others.—Not that I conceive I have a right to refuse my professional assistance to any man who demands it; but I have for a day or two past been so extremely indisposed, that I feel myself scarcely equal to the common exertion of addressing the Court; and it is only from the fullest confidence in the innocence of the Defendants that I come forward for a very short time to solicit the attention of the Jury. You, Gentlemen, indeed, are the sole arbitrators in this cause, and to you it belongs to decide on the whole merits of the question. Mr. Attorney General has already given a history of the prosecution, which was originally taken up by his predecessor, now called to a high situation in his profession. I do not mean by any thing I shall say to

impute unbecoming conduct to either of those respectable gentlemen for the part which they have taken in this business: they no doubt brought it forward, because they considered it as a proper matter for the discussion of a Jury. I take it for granted that they would not have acted so, but from a sense of duty: be this however as it may, the weight of their characters ought to have no influence upon your minds against the Defendants. It would be dangerous to justice indeed, if, because a charge was brought by a respectable Attorney General, it were to be received as an evidence of guilt which ought at all to bias the judgment or affect the decision of the Jury.—It is the privilege of every British subject to have his conduct tried by his peers, and his guilt or innocence determined by them. In this case Mr. Attorney General has given no judgment;—he has taken up the business merely in the course of his professional duty.—The whole of the matter comes before you, Gentlemen of the Jury, who of course will reject every thing that can have a tendency to influence your decision independently of the merits of the cause; you will suffer no observation that may fall from my Learned Friend, or from myself, to interfere with your own honest and unbiassed judgments.—You are to take every thing that relates to the case into *your own* consideration;—you are to consult only *your own* judgments;—you are to decide, as you are bound by your duty, according to your own consciences; and your right to decide fully, on every point, is clearly ascertained by the law of libels. To the act lately passed you are to look as the only rule of your conduct in the exercise of your functions.

With respect to the interpretation of that act, I must confess that my Learned Friend and I materially differ. In one principle, however, we entirely agree,—that a case of libel is to be tried exactly as any other criminal case: this point indeed he has most correctly stated.—When a man accused of a libel is brought before a Jury, they are to consider only the mind and intention with which the matter was written, and accordingly as they shall find that, they are to form their decision of guilt or innocence.—They are to dismiss every other consideration, and allow themselves to be biassed by no motive of party or political convenience. There is this essential difference between criminal and civil cases: in criminal cases, the Jury have the subject entirely in their own hands; they are to form their judgment upon the whole of it, not only upon the act alleged to be criminal, but the motive by which it was influenced; the intention with which it was committed; and according to their natural sense of the transaction, they ought to find a man innocent or guilty: and their verdict is conclusive. Not so in civil cases:—In these the Jury are bound to abide in their decision by the law as explained by the Judge; they are not at liberty to follow their own opinions. For instance, if I am deprived of any part of my property, the loss of my property lays a foundation for an action, and the fact being found, the Jury are bound to find a verdict against the person who has occasioned my loss, whatever might be his intentions. Here the Judge pronounces the law, the Jury only find the fact. The law and the fact are as distinct and separate, as light from darkness; nor

can any verdict of a Jury pass for a farthing in opposition to the law, as laid down by the Judge, since the Courts have a power to set such a verdict aside.—But in criminal cases, the very reverse has been immemorially established, the law and the fact have been inseparably joined ; the intention of the party accused is the very gist of the case. We are CRIMINAL only in the eyes of God and man, as far as the mind and intention in committing any act has departed from the great principles of rectitude, by which we are bound as moral agents, and by the indispensable duties of civil society. It is not the act itself, but the motive from which it proceeds, that constitutes guilt, and the general plea therefore in all criminal cases is Not Guilty. Such is the answer which the justice and clemency of our laws have put into the mouth of the accused ; leaving him the right of acquittal, if the circumstances of the transaction shall be found to exculpate his motives.

The criminality of a person under the Libel Act, is not to be taken as an inference of law from the fact, as Mr. Attorney General has stated it ; but (if, as one of the authors of that bill, I may be allowed to interpret its meaning) it connects and involves the law and the fact together, and obliges the Jury to find in this crime, as in all others, by extrinsic as well as intrinsic means, the mind and intention with which the fact was committed. Nothing can be more simple than the doctrine. It goes directly to the reason of the thing. Two men, for instance, are in company, and one of them is killed. It is not an inference in the law from

the fact of the killing that the person was guilty of murder—it might be manslaughter, justifiable homicide, chance-medley, or it might be murder:—the fact does not infer the crime: it is the intention with which the act was committed, and this the Jury are bound to discover and decide upon from all the accompanying circumstances. If I had been wrong in holding this opinion, all my opposition to that great luminary of the law now departed, but who will always live in public memory, was wrong and false; I revered his venerable authority, I admired the splendour of his talents which illustrated the age he lived in, and perhaps ages will pass without producing his rival. I still opposed him, in the meridian of his fame, on the doctrine that the law of libel was an inference from the fact, and now the Legislature have solemnly confirmed my opinion, that the law and fact are compounded together, and are both to be found by the Jury. I could not have held up my head in this Court, nor in the world, if it had been adjudged otherwise; and how my Learned Friend can hold an opinion that the question of libel is to be tried precisely like all other criminal cases, and yet that criminal intent is an inference of law, I am utterly at a loss to comprehend. I aver that you are solemnly set in judgment on the hearts of the Defendants, in the publication of this paper; you are to search for their intention by every mean which can suggest itself to you,—you are bound to believe in your consciences that they are guilty of malicious and wicked designs, before you can pronounce the verdict of GUILTY.—It is not because one of them published

the paper, or because the others are proprietors of it, but because they were, or were not, actuated by an evil mind, and had seditious intentions, that you must find them guilty or not guilty. Such was the opinion of the venerable Hale. He clearly stated that such should be the charge given to you by the Judge. It is his sacred function to deliver to you an opinion, but not to force it upon you as a RULE for yours. A Jury will always listen with reverence to the solemn opinion of the Judge, but they are bound to examine that opinion as rigorously as that of an advocate at the bar;—they cannot, and they ought not, to forget that a Judge is human, like themselves, and of course not exempt from the infirmities of man. I do not say this to inspire you with any jealousy of the explanations which may be given you by the Noble and Learned Judge, who presides here with so much wisdom, integrity, and candour, and whose ability in explaining the law derives both force and lustre from the impartiality which so eminently distinguishes him in the discharge of the duties of his office.

I now come to the consideration of the question. What is the charge against the Defendants? Let us look to the Indictment, which sets out with referring to His Majesty's proclamation which had appeared against all seditious writings, previous to the publication of the libel. I will not here talk of the propriety of that proclamation:—it is not at all my business here to enter into political questions; I have a privilege to discuss them in another place. I will suppose the proclamation to have been dictated by a wise and prudent

policy ;—I will give credit to it as a measure of salutary precaution and useful tendency. I will only remind its authors *when* it was issued. It was issued at a period the most extraordinary and eventful which ever occurred in the annals of mankind ; at a period when we beheld ancient and powerful monarchies overturned—crumbled into dust, and republics rising upon their ruins ; when we beheld despotic monarchy succeeded by the despotism of anarchy. In this state of alarm, confusion, and devastation in other countries, the Defendants are accused by this Information of wickedly, maliciously, and seditiously endeavouring to discharge His Majesty from the hearts of his subjects, and to alienate the people of England from what their affections were rivetted on—a limited and well-regulated monarchy. The proclamation appeared professedly to check a spirit of innovation, which had already displayed itself by such alarming effects in a neighbouring country, and which it was feared, by its authors, might in its progress become fatal to all establishments. How, then, can this paper be deemed seditious, in the spirit of that proclamation ? It was not surely against a reform in our own constitution, which this paper recommends, that the proclamation was pointed, but against those who, in imitation of that neighbouring country, wished to establish a republican anarchy. Can any man produce a single expression which, in the smallest degree, countenances such a system ?—How then can this paper be urged to be published in defiance of His Majesty's authority, or to have a tendency to alienate the minds of his

subjects from his government? A proclamation is always considered as the act of Ministers; it becomes the fair subject of discussion; nor do the contents of this paper at all breathe a spirit, either disrespectful to His Majesty's person, or injurious to his government.

If you, Gentlemen of the Jury, can think that the Defendants were actuated by the criminal motive, not of wishing to reform and restore the beautiful fabric of our constitution, somewhat impaired by time, but to destroy and subvert it, and to raise on its ruins a democracy or anarchy,—an idea at which the mind of every honest man must shudder,—you will find them guilty. Nay, if any man knows or believes them to be capable of entertaining such a wish, or will say he ever heard or had cause to know, that one sentence intimating a desire of that nature ever fell from the lips of any one of them, I will give them up. How they came to be so charged upon the record, I cannot tell; there are not among His Majesty's subjects men better disposed to the government under which they live than the Defendants. There have appeared in the Morning Chronicle, day after day, advertisements to a vast number, warning the people of this country against seditious persons, and against the effects of seditious publications. How any Jury can be brought to think the Defendants are what they are stated to be upon the record, I know not. The Information states, that the Defendants, being wicked, malicious, seditious, and ill-disposed persons, did *wilfully, wickedly, maliciously, and seditiously*, publish a certain *malicious, scandalous, and seditious* libel against the government

of this kingdom, against its peace and tranquillity, and to stir up revolt, and to encourage His Majesty's subjects to resistance against his person and government. This is the charge. All records have run in this form from the most remote antiquity in this country, for the purpose of charging the Defendant expressly and emphatically with an evil intention. So we charge a man accused of treason;—so of murder;—so of all the worst and most dangerous crimes; first, we begin with the intention, and then we state the overt act as evidence of that intention which constitutes the crime. Now the record charges these Defendants with this evil intention, and that, in order to give effect to that intention, they did publish the paper now before the Jury. Such is the charge. Mr. Attorney General has stated to you in his opening, that if it shall appear to you, that the paper in question was not *written with a good intention by its authors*, then the Defendants are guilty of the crime imputed to them upon the record. This I deny. Your Lordship will recollect the case of the King and Stockdale, and I shall leave to the Jury in *this*, as your Lordship did in *that* case, the question of the intention of the party from the context of the whole publication, and the circumstances attending it; and upon this, I will maintain that it is not sufficient that it should appear the paper was written with a criminal intention by its author, or that the paper itself was criminal, but that it must also appear that the Defendants *published it with a criminal intention*. Here, as in every other case, the great maxim of the law is to be recollected: *actus non facit reum*; the mere act,

taken by itself, and separated from the intention, can never in any instance constitute guilt. There is no evidence who are the authors of this paper; the Attorney General has not proved, or shown in any way that the person who composed the paper, was of the description which the record states the Defendants to be. If the design of the writers of this paper was so mischievous, then the Society that gave it birth, were seditious and evil-disposed men.—What steps have been taken to discover, and hunt out this treason? Have the Society been prosecuted, or any of its members?—Has the writer been sought after and punished?—No such thing. At Derby all is quiet. No sedition has been found lurking there,—no prosecution has been instituted against any person whatever for this paper.—But it has been said, the paper itself will prove the seditious design. After reading it over and over again, and paying to it all the attention possible, I protest I cannot discover any such tendency; on the contrary, I can very well conceive, that the man who wrote it, might honestly be induced to write and circulate it, not only with the most unblemished intentions, but from motives of the purest attachment to the constitution of the country, and the most ardent wishes for the happiness of the people.

I can conceive that he had no other object in pointing out the defects of the constitution, than to show the necessity of a reform which might bring it back to its ancient principles, and establish it in its original purity. Animated by those wishes, the author was naturally enough led to advert to what was passing on

the continent of Europe, and to consider how far it might affect the interests of his country and the attainment of his favourite object. He was thence led to conclude, that nothing could be more fatal to us, or more likely to increase the calamities under which we have already suffered, than an interference in those destructive wars which were ravaging Europe, and against which every good citizen, as well as every friend to humanity, ought to enter his protest. This may be gathered from the conclusion of the fourth section of the paper: "*We are certain our present heavy burdens are owing, in a great measure, to cruel and impolitic wars, and therefore we will do all, on our part, as peaceable citizens who have the good of the community at heart, to enlighten each other, and to protest against them.*" Here it is evident that the author considers the state of the representation as the cause of our present evils, and to a constitutional reform of Parliament he looks as their remedy.—In the conclusion of the fifth section he thus explicitly states his sentiments:

"*An equal and uncorrupt representation would, we are persuaded, save us from heavy expenses, and deliver us from many oppressions; we will therefore do our duty to procure this reform, which appears to us of the utmost importance.*" How is it proposed to procure this reform? why, "by constitutional means;—by the circulation of truth in a peaceable, calm, unbiassed manner." Can this then be maliciously intended? Does it fall within the Attorney General's description of sedition? Is it fit that a

subject of this country should be convicted of a crime, and subjected to heavy punishment, for publishing, that abuses subsist in the Government of this country; and arguing from thence the necessity of reform? Mr. Attorney General seems to admit that a man may publish, if he pleases, the evils which appear to him to subsist; but he qualifies it by saying, that when he points out the defects, he should point out also the advantages arising from our representation;—that he should state the blessings we enjoy from the mixed nature of our monarchy;—that if he draws the gloomy part, he should present us also with the bright side of the picture, in order that we may see the whole together, and be able to compare what is beautiful with what is deformed in the structure of our government. I must own I was rather surprised to hear such an argument from my Learned Friend: I can hardly think the observation fair, or by any means worthy of his enlightened understanding. He must know, that when a zealous man pours out his thoughts, intent on urging a particular point, he confines himself to the question he has in view:—he directs his whole attention to illustrate and enforce it, and does not think it necessary to run into every angle and corner, to rake together heterogeneous materials, which, though they may be connected with the general subject, are foreign to his particular purpose.

No man, if he felt himself goaded by the excise laws could be expected, in his petition for redress, to state all the advantages which arose to the state out of the other branches of the revenue.—If this were to be adopted as a rule, a man could not complain of a

grievance, however intolerable he felt it to himself, without also stating the comforts which were enjoyed by others. Is a man not to be permitted to seek redress, from any part of the government under which he lives, and to support which he contributes so much, unless in enumerating his particular grievance, he enters into a general panegyric on the constitution? Will Mr. Attorney General say to-day, that this is the law of libel?

This very point has been most admirably touched upon by a person who ranks in the highest class of genius, and whose splendid and powerful talents, once exerted in the cause of the people, may possibly bear away the palm in the minds of posterity from the most illustrious names of Greece and Rome.

Mr. Burke, in his *Reflections on the Affairs of France*, at the commencement of the revolution, most justly observes, that when a man has any particular thing in view, he loses sight for a time even of his own sentiments on former occasions: when that Right Honourable Gentleman was asked, by those who had so often listened to his eloquence in favour of the people, why he had excluded his former favourite topic from a share in his work, and made monarchy the sole subject of his vindication and panegyric?—Whatever may belong to the work itself, the answer which he gave upon that occasion must be admitted to be sound and forcible.—When the rights of the people appeared to him to be in danger, from the increasing and overpowering influence of the Crown, he brought forward, he said, sentiments favourable to such rights. But when monarchy was in danger, monarchy became

the object of his protection ; the rights of the people were nothing to him then ; they did not form the subject of his book ; his object was, to show where the danger lay ; and the beautiful illustration from Homer, relative to the death of Hector, was most applicable :
 “ When his body was placed before the aged king,
 “ his other sons surrounded him, anxious to afford that
 “ consolation which so great a calamity required ; the
 “ unhappy father, as if offended with their tenderness,
 “ flung his affectionate offspring from him like a
 “ pestilence. Was it that the inanimate and useless
 “ corpse was dearer to the parent than the living chil-
 “ dren ?—No. But his mind was so absorbed, so
 “ buried in the fate of Hector, that he was for a while
 “ incapable of entertaining any other impression.”—
 So said the author of that book : and it was well said ; for when a man writes upon a particular subject he centres his mind in, he calls forth all its powers and energy to the discussion, and allows nothing, that has not an immediate relation to the object he has in view to divide his feelings or distract his attention.—
 But if the observations of Mr. Attorney General are to be adopted as a rule, it will be impossible to discuss any point of a question, without entering into the whole merits ; no man will dare to complain of any abuse of the constitution, without, at the same time, enumerating all its excellencies, or venture to touch upon a topic of grievance, without bringing forward a recital of blessings. A paragraph would be swelled to a pamphlet, and an essay expanded to a dissertation.

But it seems the circumstances of the times render any opinion in favour of a reform of Parliament peculiarly improper, and even dangerous, and that the recommendation of it, as the only remedy for our grievances, must, therefore, in the present moment, be ascribed to mischievous intentions. Were I impressed with a sense of that corruption, which has, to a certain degree, impaired and defaced the fair fabric of our constitution, and which, if not stopped in its progress, may lead to its decay and ruin ;—were I to address you, Gentlemen of the Jury, to petition for a reform of Parliament, I would address you particularly now, as the season most fit for the purpose ; I would address you now, because we have seen in other countries, the effect of suffering evils to prevail so long in a government, and to increase to such a pitch, that it became impossible to correct them, without bringing on greater evils than those, which it was the first object of the people to remove ;—that it became impossible to remedy abuses without opening a door to revolution and anarchy. There are many diseases which might be removed by gentle medicines in their beginning, and even corrected by timely regimen, which, when neglected, are sure to bring their victims to the grave. A slight wound, which may be certainly cured by the simplest application seasonably administered, if left to itself will end in gangrene, mortification, and death. If experience can be of any service to warn men of their danger, and to instruct them how to avoid it, this is the season to teach men the best sort of wisdom,—that wisdom which comes

in time to be useful. I have myself no hesitation in subscribing to all the great points in this declaration of the meeting at Derby. To the abuses of our representative system they ascribe our unnecessary war,—our heavy burdens,—our many national calamities.—And at what period have not the best and wisest men, whom this country ever produced, adopted the same sentiments and employed the same language? The illustrious Earl of Chatham has dignified the cause by the noblest specimens of eloquence. And who has not read the beautiful and energetic Letter of Sir George Saville, to his constituents, on the same subject, a letter which is so much in point that I must beg leave to repeat it to you.

“I return to you baffled and dispirited, and I am
 “sorry the truth obliges me to add, with hardly a
 “ray of hope of seeing any change in the miserable
 “course of public calamities.

“On this melancholy day of account, in rendering
 “up to you my trust, I deliver to you your share
 “of a country maimed and weakened; its treasure
 “lavished and mis-spent; its honours faded; and its
 “conduct the laughing-stock of Europe; our nation
 “in a manner without allies or friends, except such
 “as we have hired to destroy our fellow-subjects, and
 “to ravage a country in which we once claimed an
 “invaluable share. I return to you some of your
 “principal privileges impeached and mangled. And
 “lastly, I leave you, as I conceive, at this hour and
 “moment, fully, effectually, and absolutely, under
 “the discretion and power of a military force, which

“ is to act without waiting for the authority of the
“ civil magistrates.

“ Some have been accused of exaggerating the
“ public misfortunes, nay, of having endeavoured to
“ help forward the mischief, that they might after-
“ wards raise discontents. I am willing to hope, that
“ neither my temper, nor my situation in life, will be
“ thought naturally to urge me to promote misery,
“ discord, or confusion, or to exult in the subversion
“ of order, or in the ruin of property. I have no reason
“ to contemplate with pleasure the poverty of our
“ country, the increase of our debts, and of our taxes;
“ or the decay of our commerce.—Trust not, however,
“ to my report: reflect, compare, and judge for your-
“ selves.

“ But, under all these disheartening circumstances,
“ I could yet entertain a cheerful hope, and undertake
“ again the commission with alacrity as well as zeal,
“ if I could see any effectual steps taken to remove the
“ original cause of the mischief.—Then would there
“ be a hope.

“ But, till the purity of the constituent body, and
“ thereby that of the representative, be restored, there
“ is NONE.

“ I gladly embrace this most public opportunity of
“ delivering my sentiments, not only to all my con-
“ stituents, but to those likewise not my constituents,
“ whom yet, in the large sense, I represent, and am
“ faithfully to serve.

“ I look upon restoring election and representation
“ in some degree (for I expect no miracles) to their

“ original purity, to be that, without which all other
 “ efforts will be vain and ridiculous.

“ If something be not done, you may, indeed, retain
 “ the outward form of your constitution, but not the
 “ power thereof.”

Such were the words of that great and good man, surely equally forcible with any of those employed in the declaration of the meeting at Derby, yet, who ever imputed to him mischievous intentions, or suspected him of sedition? His letter was published and circulated, not only among his constituents in the extensive county of York, but addressed to the nation at large, and recommended by him to their attention. Who does not recollect the conduct which had been adopted on the same subject by the very men now nearest His Majesty, and highest in His counsels?— Had not the same truths published in this declaration been repeatedly asserted and enforced by them? Names it is unnecessary to mention; the proceedings to which I refer are sufficiently known: but at the same time, I beg leave to be understood to convey no personal reflection or reproach. I am the more anxious, in this instance, to guard against misrepresentation from what happened to me upon a late occasion, when, in consequence of my argument being misunderstood, an observation was put into my mouth, which would have disgraced the lips of an idiot. It was ascribed to me to have said, that if any man had written a libel, and could prove the publication of the same libel by another person before, he might justify himself under that previous publication. I cannot conceive

how so egregious a blunder could have been committed; what I said was, that a man may show he was misled by another in adopting his opinion, and may use that circumstance as evidence of the innocence of his intention in a publication, where the writing is not defamatory of an individual which may be brought to a known standard of positive law, but is only criminal from a supposed tendency, in fact to excite sedition and disorder;—he may then repel that tendency, by showing the Jury, who alone are to judge of it, that the same writing had before been in extensive circulation, without either producing, or being supposed to produce, sedition; and he may also repel the inference of criminal intention, by showing that the wisest and most virtuous men in other times had maintained the same doctrines, not merely with impunity, but with the approbation and rewards of the public. This I maintained to be the law in the case of Mr. Holt the printer, and this upon every suitable occasion I shall continue to maintain.

To bring home the application. The first men in the present government have held and published every doctrine contained in this paper. I studiously avoid all allusion which may seem to convey reproach to the high persons to whom I have referred, on account of any change apparent in their conduct and sentiments, because I conceive it to be unnecessary to my present argument, and because I have a privilege to discuss their conduct in another place, where they are themselves present to answer. Besides, a man has a right to his sentiments, and he has a right to change them;—

on that score I attack no man, I only defend my Clients. But thus far I am entitled to say, that if they published sentiments without having it imputed to them, that they were seditious, evil-minded, and wicked, it is but fair and reasonable to allege, that others, in bringing forward the same sentiments, may be equally exempted from impure motives. I repeat that every man has a right to publish what he thinks upon matters of public concern, to point out the impolicy of wars, or the weight of taxes, to complain of grievances, and to expose abuses. It is a right, which has ever been exercised, and which cannot be annihilated, without at the same time putting an end to all freedom of discussion. If we talk of the circumstances of the times ; do the present afford less ground for remonstrance and complaints than former periods? I might read you many extracts from the writings of Mr. Burke, who, to eloquence, the fame of modern times, adds the most extensive and universal acquaintance with the history of both his own country and of every other.—Mr. Burke (it is a merit I never can forget), with no less vehemence, and in language not less pointed and forcible than we find in this declaration, exposes the same abuses, and laments the same evils. What HE wrote during the American war, are not the authors of this declaration justified in writing at present? To the defects and abuses of our system of representation, may in my opinion be ascribed all the calamities that we then suffered, that we are now suffering, or are still apparently doomed to suffer. The evils which we now lament, originated from the

same source with those which we formerly endured. To the defects of our representation we owe the present war, as to them also we owe that disastrous and unprincipled conflict which ended in the separation of Great Britain from her colonies. The events indeed were nearly connected: that mighty republic beyond the Atlantic gave birth to the new republic in Europe, with which we are at present engaged in hostilities. From all the consequences, which we have already experienced, which we now suffer, and which we have yet to anticipate in reserve, I will venture to say, that a reform in the representation, applied seasonably, would have effectually saved the country. Is it likely, while this fruitful source of misfortune remains, that we shall not continue to suffer? and if a man really entertains this opinion, is it not his duty to publish his thoughts, and to urge the adoption of a fair and legal remedy?—Is he to be set down as a seditious and evil-minded man because he speaks the truth and loves his country? Of the war in which this nation is engaged, I will here say nothing; it will soon come to be discussed in another place, where I have not failed to exercise that privilege, which I there possess, to deliver my opinion of its dreadful consequences. But of all these consequences, there is none which I conceive to be more dreadful and alarming than that I CAN SEE NO END TO IT; and I believe wiser persons than myself are equally at a loss to predict its termination. This paper, which so justly reprobates wars, is rumoured to come from the pen of a writer, whose productions justly entitle him to rank as the first poet

of the age;—who has enlarged the circle of the pleasures of taste, and embellished with new flowers the regions of fancy.—It was brought forward in a meeting, in a legal and peaceable manner, and I have never heard that either the author, or any of the members present at the meeting, have been prosecuted, or that the smallest censure has fallen upon their conduct.—But even if *they* had been made the objects of the prosecution, sanctioned as they are in what they have written, by every principle of the constitution, and supported in their conduct by its best and most virtuous defenders in all times, I should have had little difficulty in defending them. How much less, in the case of the Defendants, who are not stated to be the authors of this paper, who only published it in the course of their business, and who published it under such peculiar circumstances, as, even if the contents could have admitted any criminal interpretation, must have done away on their part all imputation of any criminal intention. They have in a manly way instructed me, however, to meet the question upon its own merits; not because they could not have proved a very peculiar alleviation, but because they have always presented a fair and unequivocal responsibility for the conduct of their paper. Let me particularly call your attention to this circumstance, that for the number of years during which the Defendants have conducted a newspaper, they have never before, in a single instance, been tried for any offence, either against an individual, or against the state: they have, in the execution of their task, assiduously endeavoured to enlighten the

minds of their fellow-subjects, while they have avoided every thing that might tend to endanger their morals. —They have displayed, in the conduct of their paper, a degree of learning, taste, and genius, superior to what has distinguished any similar undertaking. They have done their fellow-citizens a very essential service, by presenting them with the most full and correct intelligence of what has been passing on the political theatre of Europe, neither sullied by prejudice, nor disguised by misrepresentation. The attention which they have paid to the important occurrences that have taken place in a neighbouring country, and the impartiality with which they have stated them, do them the greatest credit.—I trust that it will be no objection to them in their character of editors, that they have sought only for the truth, and, wherever they have found facts, have not hesitated to bring them before the public. They have thus enabled their readers to judge for themselves, and have furnished them with the means to form a proper judgment. This is the true value of a free press. The more men are enlightened, the better will they be qualified to be good subjects of a good government; and the British constitution, as it has nothing to fear from comparison, so it can receive no support from those arts which disguise or suppress the truth respecting other nations. Wherever the Defendants have delivered their sentiments upon public occurrences, they have equally avoided being misled by the credulity of alarm, and the frenzy of innovation; and have reprobated, with the same spirit and boldness, the abuse of freedom and the perversion of power,—

the outrages of a sanguinary mob, and the expressions of an unprincipled despot. Whatever may have been their political partialities, they are such as cannot but do them the highest honour, and their partialities have been the result of honest conviction.—Though uniformly consistent in their friendship, they have never been accused by those who know them of being partisans for interest.—Their opinions have been honest, as well as steady; and through life they have maintained and asserted the pure principles of rational freedom, and given the most strenuous support to the best interests of man. They have, in their daily task, ever preserved reverence for private character, and in no instance violated the decorums of life, by low ribaldry or wanton defamation.—Though adverse in their sentiments to Ministers and their measures, they have confined themselves to manly discussion, and fair argument: and never descended to indecent attack, or scurrilous abuse.

My Learned Friend cannot produce a single instance in the course of seventeen years (the term of my acquaintance with them), in which they have been charged in any court with public libel, or with private defamation: and I challenge the world to exhibit a single instance in which they have made their journals the vehicles of slander, or where from interest, or malice, or any other base motive, they have published a single paragraph to disturb the happiness of private life, to wound the sensibility of innocence, or to outrage the decencies of well-regulated society.—I defy the world to produce a single instance.—Men who

have so conducted themselves, are entitled to protection from any government, but certainly they are particularly entitled to it, where a free press is part of the system. In the fair and liberal management of their paper, fifteen shillings out of every guinea which they receive flow directly into the public Exchequer; and besides the incessant toil, and the unwearied watching, all the expenses by which this great gain to Government is produced, are borne exclusively by them.—They essentially contribute therefore by their labours to the support of Government, and they are as honestly and fervently attached to the true principles of the British constitution, to the Crown, and to the mixed system of our government, as any subject of His Majesty; but at the same time they are ready to acknowledge, that they ever have been advocates for a temperate and seasonable reform of the abuses which have crept into our system.—Their minds are to be taken from the whole view of their conduct.—It is a curious, and I will venture to say in times so convulsed, an unexampled thing, that in all the productions of my friends, that in all the variety of their daily miscellany, the Crown officers have been able to pick out but one solitary advertisement from all that they have published, on which to bring a charge of sedition; and of this advertisement, if they thought fit to go into the detail, they would show even by internal evidence, that it was inserted at a very busy moment, without revision or correction, and about the very time that this advertisement appeared, seven hundred declarations, in support of the King's government, appeared

in the same paper, which they revised and corrected for publication.—You are not therefore to take one advertisement, inserted in their paper, as a criterion of their principles, but to take likewise the other advertisements which appeared along with it. Would the readers then of this paper, while they read in this advertisement a recital of the abuses of the constitution, not be in possession of a sufficient antidote from the enumeration of its blessings? While the admirers of the constitution came forward with an unqualified panegyric of its excellencies, were not the friends of reform justified in following them with a fair statement of grievances? If it is alleged, that the pecuniary interest which the proprietors have in a newspaper, ought to subject them to a severe responsibility for its contents, let it be recollected, that they have only an interest in common with the public. I again call upon Mr. Attorney General to state, whether the fact appears to him clearly established, that the writers of this paper were influenced by seditious motives. I put it to you, Gentlemen of the Jury, as honest men, as candid judges of the conduct, as fair interpreters of the sentiments of others, whether you do not in your hearts and consciences believe, that these men felt as they wrote;—that they complained of grievances which they actually experienced, and expressed sentiments with the truth of which they were deeply impressed. If you grant this—if you give them the credit of honest feelings and upright intentions, on my part any farther defence is unnecessary; we are already in possession of your verdict; you have already pronounced

them not guilty ; for you will not condemn the conduct when you have acquitted the heart. You will rather desire that British justice should resemble that attribute of Heaven which looks not to the outward act, but to the principle from which it proceeds—to the intention by which it is directed.

In summing up for the Crown, I would never wish to carry the principles of liberty farther than Mr. Attorney General has done, when he asserted the right of political discussion, and desired you only to look to the temper and spirit with which such discussion was made ;—when he asserted, that it was right to expose abuses, to complain of grievances, provided always that it were done with an honest and fair intention. Upon this principle, I appeal to you, whether this advertisement might not be written with a *bonâ fide* intention, and inserted among a thousand others, without any seditious purpose, or desire to disturb the public peace.

Undoubtedly our first duty is the love of our country ; but this love of our country does not consist in a servile attachment and blind adulation to authority.—It was not so that our ancestors loved their country ; because they loved it, they sought to discover the defects of its government ; because they loved it, they endeavoured to apply the remedy. They regarded the constitution not as slaves with a constrained and involuntary homage, but they loved it with the generous and enlightened ardour of free men.—Their attachment was founded upon a conviction of its excellence, and they secured its permanence by freeing it from

blemish.—Such was the love of our ancestors for the constitution, and their posterity surely do not become criminal by emulating their example. I appeal to you, whether the abuses stated in this paper do not exist in the constitution, and whether their existence has not been admitted by all parties, both by the friends and enemies of reform. Both, I have no doubt, are honest in their opinions, and God forbid that honest opinion in either party, should ever become a crime. In their opinion of the necessity of a reform, as the best and perhaps the only remedy of the abuses of the constitution, the writers of this paper coincide with the most eminent and enlightened men. On this ground I leave the question,—secure that your verdict will be agreeable to the dictates of your consciences, and be directed by a sound and unbiassed judgment.

Mr. ATTORNEY GENERAL.—There are some propositions which my Learned Friend (Mr. Erskine) has brought forward for the Defendants, which not only I do not mean to dispute, as an officer of the Crown, carrying on this prosecution, but which I will also admit to their full extent. Every individual is certainly in a considerable degree interested in this prosecution; at the same time I must observe, that I should have, in my own opinion, betrayed my duty to the Crown, if I had not brought this subject for the consideration of a Jury. Considering, however, every individual as under my protection, I think it a duty which I owe to the Defendants, to acknowledge, that in no one instance

before this time were they brought to the bar of any Court, to answer for any offence either against Government or a private individual.—This is the only solitary instance in which they have given occasion for such charge to be brought against them. In every thing, therefore, that I know of the Defendants, you are to take them as men standing perfectly free from any imputation but the present ; and I will also say, from all I have ever heard of the Defendants, and from all I have ever observed of their morals in the conduct of their paper, I honestly and candidly believe them to be men incapable of wilfully publishing any slander on individuals, or of prostituting their paper to defamation or indecency. But my Learned Friend, Mr. Erskine, has stated some points, which my duty calls upon me to take notice of. I bound myself by the contents of the paper only ; I did not know the author of it. I did not know any Society from which the paper purported to have originated ; it is said to be the production of a man of great abilities ; I do not know that he is the author ; at any rate, this is the first time I ever heard of that circumstance. There is one fact, on which we are all agreed, that the paper itself was dated on the 16th of July, 1792, and that it appeared in the Morning Chronicle on the 25th of December, 1792. It was then presented to the public with a variety of other advertisements, which it will be proper for you to peruse, and for that purpose you will carry out the paper with you, if you find it necessary to withdraw, in order to see what the intent of the Defendants was in publishing this paper. A bill, I also admit, passed

into a law, the last session of Parliament, upon the subject of libels; but it would be exceedingly unfortunate for the people of this country, if my Learned Friend and myself were to be allowed to give evidence in a court of justice of what was our intention in passing that bill. The bill has now become a solemn act of the Legislature, and must speak for itself by its contents; but, however, it has, in my opinion, done what it was intended to do. It refers the question of guilt to the Jury in cases of libels, precisely as in every other criminal case. My Learned Friend has insisted, that criminal intention is matter of fact mixed with matter of law. I agree to this description; but then the law says that such and such facts are evidence of such and such intentions. Treason, for instance, depends upon intention; but such and such acts are evidence of a criminal intention; and if the Jury entertain any doubts upon any part of the charge, his Lordship will only do his duty by giving them his advice and direction, which will be, that he who does such and such things, if he does them with a criminal intention, is amenable to the law, and that such and such acts are evidence of the criminal intention; and then the Jury must decide upon that evidence, and upon that advice, whether the Defendant was or was not guilty: so says Mr. Erskine, and so I say; for it is a matter of plain common sense, coming home to the understanding of every man. Mr. Erskine has contended, that the Jury must not draw the inference of criminal intention from the mere fact of publishing a paper. Certainly not; but they may draw the inference of guilty intention, if they discover

in the contents of the paper a wicked and malicious spirit, evidently pursuing a bad object by unwarrantable means. If I should put a paper into the hands of the Jury, desiring them to put my Learned Friend to death, would not that prove an evil intention against my Friend's life? In all cases of publication, containing any thing improper, the bad intention of the person publishing was clear, unless on his own part he could prove the contrary. Such has always been the law of England, in criminal cases of this description. Mr. Erskine has desired you to carry out the paper, and look at the other advertisements; upon this I am bound to remark, that there is not one of them, except that in question, which is not dated in the month of December, while this advertisement is dated on the 16th of July, though it did not find its way into the Morning Chronicle until the end of the month of December. How that came to happen I cannot tell; it must be left to you to determine; but it does appear that at a very critical moment to the constitution of this country, it was brought out to counteract the intention and effect of all the other declarations in support of Government. At what time the Defendants received the paper in question, they have not attempted to prove. Why, if they received it in July, they did not then insert it, they have not said. They have brought no exculpatory evidence whatever to account for the delay. It was urged that the Defendants only published it in the way of business, as an advertisement, and therefore they could not be said to be guilty; if I should be brought to admit this as a sufficient an-

swer, and never institute a prosecution where such was the case, I should, in so doing, deliver the Jury, and every man in this country, to the mercy of any newspaper printer in this kingdom, to be traduced and vilified, just as the malice of any man, who chose to pay for vending his own scandal, should dictate; I therefore entreat you to bring the case home to your own bosoms, and to act for the public, as in such an instance you would wish to act for yourselves. I must likewise say, that if you are to look at the intention of the Defendants in the other matter contained in the same paper, you will find various strong and even intemperate things. Among others, you will find the following, which, if it did not show a seditious, did not breathe a very temperate spirit: “Well might Mr. Fox call this
 “the most momentous crisis that he ever heard of in
 “the history of England; for we will venture to say,
 “there is not any one species of tyranny, which might
 “not, in the present day, be tried with impunity; no
 “sort of oppression which would not find, not merely
 “advocates, but supporters; and never, never in the
 “most agitated moments of our history, were men so
 “universally tame, or so despicably feeble.”

This paragraph is no advertisement; it came from no Society; and will, I take it for granted, not be disavowed by the Defendants.

Upon the question of a reform of Parliament, I remain of the same opinion which I have always entertained; and whatever may have been said or thought by Mr. Fox, Mr. Pitt, the Duke of Richmond, the late Earl of Chatham, or the late Sir George Saville, or by

any man, let his authority have been ever so great, never while I live will I consent to vote for a reform in Parliament, until I see something specific to be done, and can be very sure that the good to be gained will make it worth while to hazard the experiment.

In this way of thinking I am the more confirmed from the circumstance, that of all the wise and excellent men who have at different times agitated the question of reform, none of them have ever been able to agree upon one specific plan. And I declare, that I would rather suffer death than consent to open a door for such alterations in the government of this country, as chance or bad men might direct; or even good men, misled by bad, might, in the first instance, be inclined to adopt. I shudder, indeed, when I reflect on what have been the consequences of innovation in a neighbouring country. The many excellent men who there began to try experiments on government, confining their views within certain limits of moderation, and having no other object than the public good, little did they foresee in their outset the excesses and crimes which would follow in the progress of that revolution, of which they were the authors, and of which they were themselves destined to become the victims. They are now lying in the sepulchres of the dead, and the tombs of mortality; and most willingly, I am persuaded, would they have consigned themselves to their fate, if, by their death, they could have saved their unhappy country from the horrors and miseries of that dreadful anarchy into which it has fallen. Never, with such examples before my eyes, will I stake the blessings

which we possess under the government of this country, upon the precarious consequences of innovation ; nor consent to any alteration, of which, whatever may be stated as its object, the precise effects can never be ascertained. Indeed, I must think that my friend Mr. Erskine, in his propositions with respect to a reform, allows himself to talk like a child, and does not sufficiently consult that excellent judgment which he displays upon every other occasion. But let me entreat him to reflect on the situation in which both of us are now placed, and which, if twenty years ago, any person told me I should have attained, I should have regarded it as madness. If we, by our industry (my Friend, indeed, with the advantage of his superior talents), have acquired a degree of opulence and distinction, which we could not reasonably have looked for, let us be thankful to that government to whose protection and favour we are, in a great measure, indebted for our success ; and do not let us, by any rash attempt upon our constitution, put it out of the power of our children to rise to similar situations, or deprive them of those blessings which we have ourselves so signally experienced. Do not let us pull down a fabric, which has been the admiration of ages, and which it may be impossible to erect anew. Let me again call your attention to the paper upon which this prosecution is founded. [Here Mr. Attorney General read several extracts from the Declaration.] After what you have heard, I think it is impossible to doubt of the libellous tendency of this publication. It states, as I have already said, the whole of our government as one mass of grievances

and abuse ; while it does not so much as enumerate a single blessing or advantage with which it is attended. It represents it as corrupt and oppressive in every branch, as polluted in its very source, its legislature, and its courts of justice. What, I ask, can be supposed to be the spirit with which such representations are dictated, and the consequences to which they are calculated to lead ? Can you admit such representations to have been brought forward *bonâ fide*, and from no other motive, than the wish to procure a peaceable and legal redress of grievances ? If you can admit this, you will of course find the Defendants not guilty. But if it shall appear otherwise, let me remind you of that duty which you owe to the public, with whose safety and protection you are intrusted, and whose interests you are to consult in the verdict which you shall give. Let me remind you of the necessity of checking, in proper time, the spirit of sedition, and frustrating the designs of the factious, before it be too late. Let me conclude with observing, that I have brought forward this prosecution as a servant of the public, influenced by my own judgment, and acting from what I conceived to be my duty. I had no other view than the public advantage ; and should you be of opinion that the Defendants ought to be declared not guilty, I trust you will acquit me of any intention of acting either impertinently with respect to you, or oppressively to the Defendants. I shall then retire, conscious of having done my duty in having stated my opinion, though inclined, in deference to your verdict, to suppose myself mistaken.

LORD KENYON then gave a Charge, in substance as follows :

Gentlemen of the Jury,—There are no cases which call forth greater exertions of great abilities than those that relate to political libels. And as this cause, both on the part of the prosecution, and also on behalf of the Defendants, has been so amply discussed that the subject is exhausted, I should have satisfied myself with what has been already said, if there was not a duty lying on me, which by the law of the land it is incumbent on me to discharge.

The liberty of the press has always been, and has justly been, a favourite topic with Englishmen. They have looked at it with jealousy whenever it has been invaded; and though a licenser was put over the press, and was suffered to exist for some years after the coming of William, and after the Revolution, yet the reluctant spirit of English liberty called for a repeal of that law; and from that time to this it has not been shackled and limited more than it ought to be.

Gentlemen, it is placed as the sentinel to alarm us, when any attempt is made on our liberties; and we ought to be watchful, and to take care that the sentinel is not abused and converted into a traitor. It can only be protected by being kept within due limits, and by our doing those things which we ought, and watching over the liberties of the people; but the instant it degenerates into licentiousness, we ought not to suffer it to exist without punishment. It is there-

fore for the protection of liberty, that its licentiousness is brought to punishment.

A great deal has been said respecting a reform of Parliament, that is, an alteration of Parliament. If I were called upon to decide on that point, before I would pull down the fabric, or presume to disturb one stone in the structure, I would consider what those benefits are which it seeks, and whether they, to the extent to which they are asked, ought to be hazarded; whether any imaginary reform ought to be adopted, however virtuous the breast, or however able the head, that might attempt such a reform. I should be a little afraid, that when the water was let out, nobody could tell how to stop it; if the lion was once let into the house, who would be found to shut the door? I should first feel the greater benefits of a reform, and should not hazard our present blessings out of a capricious humour to bring about such a measure.

The merits or demerits of the late law respecting libels I shall not enter into. It is enough for me that it is the law of the land, which by my oath I am bound to give effect to, and it commands me to state to Juries what my opinion is respecting this or any other paper brought into judgment before them. In forming my opinion on this paper, or on any other, before I arrive at a positive decision on that point, I would look about, and see what the times were when the publication took place. I would look at all the attendant circumstances, and, with that assistance, I would set about to expound the paper. The observations which this cause calls for, form a part of the

notorious history of the country. How long this paper was penned before it appeared in this newspaper, I know not: the 25th of December is the day when it was published, and it is dated the 16th of July, 1792.

Gentlemen, you will recollect the appearance of public affairs, and the feelings of every mind in the country, at the time that Parliament met, and for some time after, in December last. I do not know whether I colour the picture right, when I say very gloomy sensations had pervaded the whole country. It is for you to say whether at that time there were not emissaries from a neighbouring country making their way, as well as they could, in this country. It is for you to say, looking at the great anarchy and confusion of France, whether they did not wish to agitate the minds of all orders of men, in all countries, and to plant their tree of liberty in every kingdom in Europe. It is for you to say whether their intention was not to eradicate every kind of government that was not sympathetic with their own. I am bound, Gentlemen, to declare my opinion on this paper, and to do so I must take within my consideration all the circumstances of the time when it appeared. I have no hesitation in saying then, that they were most gloomy:—The country was torn to its centre by emissaries from France. It was a notorious fact—every man knows it—I could neither open my eyes nor my ears without seeing and hearing them. Weighing thus all the circumstances, that, though dated in July, it was not published till December, when those emissaries were spreading their horrid doctrines; and believing there

was a great gloominess in the country,—and I must shut my eyes and ears if I did not believe that there was;—believing also that there were emissaries from France, wishing to spread the maxims prevalent in that country, in this;—believing that the minds of the people of this country were much agitated by these political topics, of which the mass of the population never can form a true judgment;—and reading this paper, which appears to be calculated to put the people in a state of discontent with every thing done in this country;—I am bound on my oath to answer, that I think this paper was published with a wicked, malicious intent, to vilify the government, and to make the people discontented with the constitution under which they live.—That is the matter charged in the Information;—that it was done with a view to vilify the constitution, the laws, and the government of this country, and to infuse into the minds of His Majesty's subjects a belief that they were oppressed, and on this ground I consider it as a gross and seditious libel. This is the question put to you to decide.

It is admitted the Defendants are the proprietors of the paper in which this address was published.

There is one topic more. It is said they were not the authors of the address, and that it got inadvertently into their paper. It never was doubted, and I suppose it never will be doubted, that the publishers of a newspaper are answerable for the contents of it. Those who think most favourably for the Defendants, will go no farther than to say, that the parties publishing ought to give an account how they published it, and if there is

any thing baneful in the contents, to show how it came to them, and whether it was inserted inadvertently or otherwise. If any thing of that sort had been offered, I certainly should have received it as evidence. But nothing of the kind has been offered, and the Defendants stand as the proprietors and publishers of the paper, without the slightest evidence in alleviation being offered in their favour.

It is not for human judgment to dive into the heart of man, to know whether his intentions are good or evil. We must draw our conclusions with regard to his intentions from overt acts; and if an evil tendency is apparent on the face of any particular paper, it can only be traced by human judgment *primâ facie* to a bad intention, unless evidence is brought to prove its innocence. This cause is destitute of any proof of that kind.

It is said that this paper contains other advertisements and paragraphs; and therefore from the moral good tendency of the whole, for aught I know to the contrary, you are to extract an opinion that the meaning was not bad. I cannot say that the travelling into advertisements, which have nothing to do with this business, is exactly the errand you are to go upon. From this paper itself, and all the contents of it, you will extract the meaning; and if upon the whole you should think the tendency of it is good, in my opinion, the parties ought to be acquitted. But it is not sufficient that there should be in this paper detached good morals in part of it, unless they give an explanation of the rest. The charge will be done away, if those parts

which the Attorney General has stated are so explained as to leave nothing excepted.

There may be morality and virtue in this paper; and yet, apparently, *latet anguis in herbâ*. There may be much that is good in it, and yet there may be much to censure. I have told you my opinion. Gentlemen, the constitution has intrusted it to you, and it is your duty to have only one point in view—Without fear, favour, or affection, without regard either to the Prosecutor or the Defendants, look at the question before you, and on that decide on the guilt or innocence of the Defendants.

The Jury then withdrew: it was two o'clock in the afternoon. The Noble and Learned Judge, understanding that they were divided and likely to be some time in making up their minds, retired from the bench, and directed Mr. *Lowten* to take the verdict. At seven in the evening they gave notice that they had agreed on a special verdict, which Mr. *Lowten* could not receive; they went up in coaches, each attended by an officer, to Lord *Kenyon's* house; the special verdict was,

Guilty of publishing, but with no malicious intent.

LORD KENYON. —I cannot record this verdict; it is no verdict at all.

The Jury then withdrew—and, after sitting in discussion till within a few minutes of five in the morning, they found a general verdict of—NOT GUILTY.

TRIAL OF MR. THOMAS WALKER OF MANCHESTER, MERCHANT, AND SIX OTHER PERSONS, INDICTED FOR A CONSPIRACY TO OVERTHROW THE CONSTITUTION AND GOVERNMENT OF THIS KINGDOM; AND TO AID AND ASSIST THE FRENCH, BEING THE KING'S ENEMIES, IN CASE THEY SHOULD INVADE THIS KINGDOM.—TRIED AT LANCASTER BEFORE MR. JUSTICE HEATH, ONE OF THE JUDGES OF THE COURT OF COMMON PLEAS, AND A SPECIAL JURY, ON THE 2ND OF APRIL 1794.

SUBJECT, &c.

WE have not found it necessary for the full understanding of this interesting and extraordinary case, to print the evidence given upon the trial; because, to the honour of Lord Ellenborough, then Mr. Law, who conducted the prosecution for the Crown, after hearing positive contradiction of the only witness in support of it, by several unexceptionable persons, he expressed himself as follows:

“ I know the characters of several of the gentlemen who
“ have been examined, particularly of Mr. Jones. I cannot
“ expect one witness alone, unconfirmed, to stand against the
“ testimony of all these witnesses; I ought not to desire it.”
To which just declaration, which ended the trial, Mr. Justice Heath said,—“ You act very properly, Mr. Law.”

The Jury found Mr. Walker Not Guilty; and the witness was immediately committed, indicted for perjury, and convicted at the same assizes.

We have printed Mr. Law's able and manly Speech to the Jury, which contains the whole case, afterwards proved by

the witness who was disbelieved. The Speech of Mr. Erskine in answer to it states the evidence afterwards given to contradict him.

Mr. Walker was an eminent merchant at Manchester, and a truly honest and respectable man; and nothing can show the fever of those times, more than the alarming prosecution of such a person upon such evidence. It is not to every Attorney General, that such a case could have been safely trusted.—The conduct of Mr. Law was highly to his honour, and a prognostic of his future character as a Judge.

The Indictment having been opened by Mr. JAMES,
Mr. LAW addressed the Jury as follows:

GENTLEMEN OF THE JURY,

THE Indictment which has been read to you, imputes to the Defendants a species of treasonable misdemeanor, second only in degree, and inferior only in malignity, to the crime of high treason itself. It imputes to them a conspiracy for the purpose of adhering with effect to the King's enemies, in case the calamity of foreign invasion or of internal and domestic tumult should afford them the desired opportunity of so doing—a conspiracy for the purpose of employing against our country those arms which should be devoted to its defence; and of overthrowing a constitution, the work of long-continued wisdom and virtue in the ages that have gone before us, and which, I trust, the sober-minded virtue and wisdom of the present age will transmit unimpaired to ages that are yet to succeed us. It imputes to them a conspiracy, not indeed levelled at

the person and life of our Sovereign, but at that constitution at the head of which he is placed, and at that system of beneficial laws which it is his pride and his duty to administer;—at that constitution which makes us what we are, a great, free, and, I trust, with a few exceptions only, a happy and united people. Gentlemen, a conspiracy formed for these purposes, and to be effected eventually by means of arms;—a conspiracy which had either for its immediate aim or probable consequence, the introduction into this country, upon the model of France, of all the miseries that disgrace and desolate that unhappy land, is the crime for which the Defendants stand arraigned before you this day; and it is for you to say, in the first instance, and for my Lord hereafter, what shall be the result and effect in respect to persons, against whom a conspiracy of such enormous magnitude and mischief shall be substantiated in evidence.

Gentlemen, whatever subjects of political difference may subsist amongst us, I trust we are in general agreed in venerating the great principles of our constitution, and in wishing to sustain and render them permanent. Whatever toleration and indulgence we may be willing to allow to differences in matters of less importance, upon some subjects we can allow none;—to the friends of France, leagued in unity of council, inclination, and interest with France, against the arms and interests of our country, however tolerant in other respects, we can afford no grains of allowance, —no sentiments of indulgence, or toleration whatsoever; to do so, at a time when those arms and councils

are directed against our political and civil, against not our national only, but natural existence (and at such a period you will find that the very conspiracy now under consideration was formed), would be equally inconsistent with every rule of law and every principle of self-preservation:—it would be at once to authorize every description of mischievous persons to carry their destructive principles into immediate and fatal effect; in other words, it would be to sign the doom and downfall of that constitution which protects us all.

I am sure, therefore, that for the *crime*, such as I have represented it to be, my learned friend will not, in the exercise of his own good sense, choose to offer any defence or apology; but he will endeavour to make the evidence I shall lay before you, appear in another point of view:—he will endeavour to conceal and soften much of that malignity which I impute, and I think justly, to the intentions and actings of these Defendants.

It was about the close of the year 1792, that the French nation thought fit to hold out to all the nations on the globe, or rather, I should say, to the discontented subjects of all those nations, an encouragement to confederate and combine together, for the purpose of subverting all regular established authority amongst them, by a decree of the 19th of November 1792, which I consider as the immediate source and origin of this and other mischievous societies. That nation, in convention, pledged to the discontented inhabitants of other countries, its protection and assistance, in case they should be disposed to innovate and change the

form of government under which they had heretofore lived. Under the influence of this fostering encouragement, and meaning, I must suppose, to avail themselves of the protection and assistance thus held out to them, this and other dangerous societies sprang up and spread themselves within the bosom of this realm.

Gentlemen, it was about the period I mentioned, or shortly after, I mean in the month of December, which followed close upon the promulgation of this detestable decree, that the society on which I am about to comment,—ten members of which are now presented in trial before you,—was formed.* The vigilance of those to whom the administration of justice and the immediate care of the police of the country is primarily entrusted, had already prevented or dispersed every numerous assembly of persons which resorted to public-houses for such purposes; it therefore became necessary for persons thus disposed, to assemble themselves, if at all, within the walls of some private mansion. The president and head of this society, Mr. Thomas Walker, raised to that bad eminence by a species of merit which will not meet with much favour or encouragement here, opened his doors to receive a society of this sort at Manchester, miscalled the Reformation Society: the name may, in some senses, indeed import and be understood to mean a society formed for the purpose of beneficial reform; but what the real purposes of this society were, you will presently learn, from their de-

* The Manchester Constitutional Society was instituted in October 1790; the Reformation Society, in March 1792; the Patriotic Society, in April 1792.

clared sentiments and criminal actings. He opened his doors, then, to receive this society;—they assembled, night after night, in numbers, to an amount which you will hear from the witnesses: sometimes, I believe, the extended number of such assemblies amounting to more than a hundred persons. There were three considerable rooms allotted for their reception. In the lower part of the house, where they were first admitted, they sat upon business of less moment, and requiring the presence of smaller numbers;—in the upper part, they assembled in greater multitudes, and read, as in a school, and as it were to fashion and perfect themselves in every thing that is seditious and mischievous, those writings which have been already reprobated by other Juries, sitting in this and other places, by the Courts of law, and in effect, by the united voice of both Houses of Parliament. They read, amongst other works, particularly the works of an author whose name is in the mouth of every body in this country; I mean the works of Thomas Paine;—an author, who, in the gloom of a French² prison, is now contemplating the full effects and experiencing all the miseries of that disorganizing system of which he is, in some respect, the parent—certainly, the great advocate and promoter.

The works of this author, and many other works of a similar tendency, were read aloud by a person of the name of Jackson, who exercised upon those occasions the mischievous function of reader to this society. Others of the Defendants had different functions assigned them; some were busied in training them to

the use of arms, for the purpose, avowedly, in case there should be either a landing of the French, with whom we were then, I think, actually at war or about to be immediately at war ; or in case there should take place a revolt in the kingdoms of Ireland or Scotland, to minister to their assistance, either to such invasion or to such revolt. That they met for such purposes is not only clear from the writings that were read aloud to them, and the conversations that were held, but by the purposes which were expressly declared and avowed by those who may be considered as the mouth-pieces and organs of the society upon these occasions.

The first time, I think, that the witness Dunn, whom I shall presently produce to you, saw the Defendant Mr. Walker, Mr. Walker declared to him, "*that he hoped they should soon overthrow the constitution.*" The witness I have alluded to was introduced to the society by two persons, I think of the names of M'Callum and Smith, and who, if I am not misinformed, have since taken their flight from this country to America. The first night he was there, he did not see their president, Mr. Walker, but on the second night that he went there, Mr. Walker met him as he entered the door, and observing, from his dialect, that he was a native of Ireland, Mr. Walker inquired of him how the volunteers went on, and said, with a smile as he passed him in his way up stairs to the rest of the associated members, "*we shall overthrow the constitution by and by.*" The witness was then ushered into this room, where he saw assembled nearly to the number of a hundred or a hundred and fifty

persons. The room was, I understand, a large warehouse at the top of the house; there were about fourteen or fifteen persons then actually under arms, and some of those whose names are to be found in this record were employed in teaching others the military exercise. It would be endless, as well as useless, to relate to you the whole of what passed at these several meetings.

Upon some occasions, Mr. Walker would talk in the most contumelious and abominable language of the sacred person of our Sovereign. In one instance, when talking of monarchy, he said, "Damn Kings! " what have we to do with them, what are they to us?" and, to show the contempt in which he held the lives of all kings, and particularly that of our own Sovereign, taking a piece of paper in his hand, and tearing it, he said, "If I had the King here, I would cut off " his head, as readily as I tear this paper."

Upon other occasions, others of the members, and particularly a person of the name of Paul, who I believe is now in Court, held similar language:—damning the King;—reviling and defaming him in the execution of his high office;—representing the whole system of our public government as a system of plunder and rapacity; representing, particularly, the administration of a neighbouring kingdom by a Lord-lieutenant, as a scheme and device merely invented to corrupt the people, and to enrich and aggrandize the individual to whose care the government of that kingdom is more immediately delegated;—in short, arraigning every part of our public economy as directly

productive of misgovernment and oppression. The King himself was sometimes more particularly pointed at by Mr. Walker. He related of him a strange incredible and foolish fable, which I never heard suggested from any other quarter;—"That His Majesty "was possessed of seventeen millions of money in "some bank or other at Vienna, which he kept locked "up there, and would not bestow a single penny of it "to relieve the distresses and indigence of any part of "his own subjects." Many other assertions of this sort were made, and conversations of a similar import held, between Mr. Walker and the persons thus assembled.

About three months after the formation, as far as I can collect it, of this society, that is, about the month of March, 1793, a person of the name of Yorke—Yorke of Derby, I think he is called,—arrived at Manchester, with all the apparatus of a kind of apostolic mission, addressed to the various assemblies of seditious persons in that quarter of the kingdom. He harangued them upon such topics as were most likely to interest and inflame them;—he explained to them the object of the journey he was then making through the country;—he said, he was come to visit all the combined societies, in order to learn the numbers they could respectively muster, in case there should be an invasion by the French, which was then talked of, and is yet, I am afraid, talked of but upon too much foundation;—to know, in short, what number they could add to the arms of France, in case these arms should be hostilely directed against Great Britain

itself;—he stated that the French were about to land in this country to the number of forty or fifty thousand men, and that he was collecting, in the different societies, the names of such persons as could be best depended upon; in order to ascertain what number in the whole could actually be brought into the field upon such an emergency.

When this person was present, there seems to have been a sort of holiday and festival of sedition: each member strove with his fellow which should express sentiments the most injurious and hostile to the peace and happiness of their country. Dunn, the witness I have already alluded to, will speak to the actual communication of all the several persons who are Defendants upon this record in most of the mischievous councils which were then held, and which are the subject of this prosecution. They met during a considerable length of time he attended (and here you will not be called upon to give credit to a loose and casual recollection of a few random expressions, uttered upon one or two accidental occasions, capable of an innocent or doubtful construction); but he attended, I believe, at nearly forty of these meetings;—he attended them from about the month of December or January, down to the month of June, when, either through compunction for the share he had himself borne in those mischievous proceedings, or whatever else might be his motive—I trust it was an honourable one, and that it will in its effects prove beneficial to his country,—he came forward and detailed this business to the magistrates of this county. It became them, having such

circumstances related to them, and having it also confirmed by other evidence, that there were numerous nightly meetings of this sort held at stated intervals at the house of Walker, upon having the objects of these meetings detailed and verified to them—it became them, I say, to use means for suppressing a mischief of such extent and magnitude. It was accordingly thought proper to institute this prosecution for the purpose of bringing these enormous proceedings into public discussion and inquiry, before a Jury of the country, and for the purpose of eventually bringing to condign punishment the persons immediately concerned in them.

Gentlemen, the evidence of this person, the witness I have mentioned, will unquestionably be assailed and attacked by a great deal of attempted contradiction;—his character will, I have no doubt, be arraigned and drawn in question from the earliest period to which the Defendants can have an opportunity of access, for materials respecting it. Upon nothing but upon the effectual impeachment of the character of this witness, can they bottom any probable expectations of acquittal;—to that point, therefore, their efforts will be mainly directed. I wish their efforts had been hitherto directed innocently towards the attainment of this object, and that no opportunities had been recently taken, in occasional meetings and conversations, to attempt to tamper with the testimony of this witness. There are other practices, which, next to an actual tampering with the testimony of a witness, are extremely mischievous to the regular course and administration of

justice. I mean attempts to lure a witness into conversations respecting the subject of his testimony ; of this we have seen many very blameable instances in the course of the present circuit, where conversations have been set on foot for the purpose of catching at some particular expressions, inadvertently dropt by a witness, and of afterwards bringing them forward, separately and detached from the rest of the conversation, in order to give a different colour and complexion to the substance of his evidence, and to weaken the effect and credit of the whole.

Gentlemen, these attempts are too commonly made ; —happily, however, for public justice, they are commonly unsuccessful ; because they do and must, with every honourable mind, recoil upon the party making them. Private applications to a person not only known to be an adverse witness, but to be the very witness upon whose credit the prosecution most materially depends ; private conversations with such a witness, for the purpose of getting from him declarations which may be afterwards opposed in seeming contradiction to his solemn testimony upon oath, are of themselves so dishonourable, that, with every well-disposed and well-judging mind, they will naturally produce an effect directly contrary to the expectations of the persons who make them.

I know, Gentlemen, what I have most to fear upon this occasion ; I know the vigour and energy of the mind of my learned friend.—I have long felt and admired the powerful effects of his various talents—I know the ingenious sophistry by which he can mislead,

and the fascination of that eloquence by which he can subdue the minds of those to whom he addresses himself.—I know what he can do to-day, by seeing what he has done upon many other occasions before. But, at the same time, Gentlemen, knowing what he is, I am somewhat consoled in knowing you. I have practised for several years in this place ; I know the sound discretion and judgment by which your verdicts are generally governed ; and upon the credit of that experience, I trust that it will not be in the power of my friend, by any arts he is able to employ, to seduce you a single step from the sober paths of truth and justice. You will hear the evidence with the attention which becomes men who are deciding on the fate of others. If these Defendants be innocent, and my learned friend is able to substantiate their innocence, to your satisfaction, for God's sake let them be acquitted : but if that innocence cannot be clearly and satisfactorily established, I stand here interested as I am in common with him in the acquittal of innocence, at the same time however demanding the rights of public justice against the guilty. It imports the safety of yourselves,—it imports the safety of our country,—it imports the existence and security of every thing that is dear to us, if these men be not innocent, that no considerations of tenderness and humanity,—no considerations of any sort, short of what the actual abstract justice of the case may require, should prevent the hand of punishment from falling heavy on them.

Having, therefore, Gentlemen, given you this short detail and explanation of the principal facts which are

about to be laid before you in evidence, I will now close the first part of the trouble I must give you. I shall by and by, when my learned friend has adduced that evidence by which he will attempt to assail the character and credit of the principal witness for the prosecution, have an opportunity of addressing you again; and, I trust, in the mean time, whatever attention you may be disposed to pay to the exertions of those who will labour to establish the innocence of the persons now arraigned before you, that you will, at the same time, steadily bear in mind the duties which you owe to yourselves and to your country;—recollecting, as I am sure you will, that we all look up to your firmness and integrity at this moment, for the protection of that constitution from which we derive every blessing we individually or collectively enjoy.

MR. ERSKINE.

GENTLEMEN OF THE JURY,

I LISTENED with the greatest attention (and in honour of my learned friend I must say with the greatest approbation) to much of his address to you in the opening of this cause;—it was candid and manly, and contained many truths which I have no interest to deny; one in particular which involves in it indeed the very principle of the defence,—the value of that happy constitution of government which has so long existed in this island. I hope that none of us will ever forget the gratitude which we owe to the Divine Providence, and, under its blessing, to the wisdom of our forefathers, for the happy establishment of law and justice under which we live; and under which, thank God, my Clients are this day to be judged: great indeed will be the condemnation of any man who does not feel and act as he ought to do upon this subject; for surely if there be one privilege greater than another, which the benevolent Author of our being has been pleased to dispense to his creatures since the existence of the earth which we inhabit, it is to have cast our lots in this age and country:—for myself, I would in spirit prostrate myself daily and hourly before Heaven to acknowledge it, and instead of coming from the house of Mr. Walker, and accompanying him at Pres-

ton (the only truths which the witness has uttered since he came into Court), if I believed him capable of committing the crimes he is charged with, I would rather have gone into my grave than have been found as a friend under his roof.

Gentlemen, the crime imputed to the Defendant is a serious one indeed :—Mr. Law has told you, and told you truly, that this Indictment has not at all for its object to condemn or to question the particular opinions which Mr. Walker and the other Defendants may entertain concerning the principles of this government, or the reforms which the wisest governments may from time to time require : he is indeed a man of too enlarged a mind to think for a moment that his country can be served by interrupting the current of liberal opinion, or overawing the legal freedom of English sentiment by the terrors of criminal prosecution : he openly disavows such a system, and has, I think, even more than hinted to us that there may be seasons when an attention to reform may be salutary, and that every individual under our happy establishment has a right upon this important subject to think for himself.

The Defendants therefore are not arraigned before you, nor even censured in observation, for having associated at Manchester to promote what they felt to be the cause of religious and civil liberty ;—nor are they arraigned or censured for seeking to collect the sentiments of their neighbours and the public concerning the necessity of a reform in the constitution of Parliament ; these sentiments and objects are wholly out of the question : but they are charged with having

unlawfully confederated and conspired to destroy and overthrow the government of the kingdom by OPEN FORCE AND REBELLION, and that to effect this wicked purpose they exercised the King's subjects with arms, perverting that which is our birthright, for the protection of our lives and our property, to the malignant purpose of supporting the enemies of this kingdom in case of an invasion: in order, as my friend has truly said (for I admit the consequence if the fact be established), in order to make our country that scene of confusion and desolation which fills every man's heart with dismay and horror, when he only reads or thinks of what is transacting at a distance upon the bloody theatre of the war that is now desolating the world. This, and nothing different or less than this, is the charge which is made upon the Defendants, at the head of whom stands before you a merchant of honour, property, character, and respect;—who has long enjoyed the countenance and friendship of many of the worthiest and most illustrious persons in the kingdom, and whose principles and conduct have more than once been publicly and gratefully acknowledged by the community of which he is a member, as the friend of their commerce and liberties, and the protector of the most essential privileges which Englishmen can enjoy under the laws.

Gentlemen, such a prosecution against such a person ought to have had a strong foundation: putting private justice and all respect of persons wholly out of the question, it should not, but upon the most clear conviction and the most urgent necessity, have been

instituted at all ; we are at this moment in a most awful and fearful crisis of affairs ;—we are told authentically by the Sovereign from the throne, that our enemies in France are meditating an invasion, and the kingdom from one end to another is in motion to repel it. In such a state of things, and when the public transactions of government and justice in the two countries pass and repass from one another as if upon the wings of the wind, is it politic to prepare this solemn array of justice upon such a dangerous subject, without a reasonable foundation, or rather without an urgent call ? At a time when it is our common interest that France should believe us to be, what we are and ever have been, one heart and soul to protect our country and our constitution—is it wise or prudent, putting private justice wholly out of the question, that it should appear to the councils of France,—apt enough to exaggerate advantages,—that the Judge representing the Government in the northern district of this kingdom should be sitting here in judgment in the presence of all the gentlemen whose property lies in this great county, to trace and to punish the existence of a rebellious conspiracy to support an invasion from France ?—a conspiracy not existing in a single district alone, but maintaining itself by criminal concert and correspondence in every district, town, and city in the kingdom ;—projecting nothing less than the utter destruction and subversion of the Government.—Good God ! can it be for the interest of Government that such an account of the state of this country should go forth ? Unfortunately,

the rumour and effect of this day's business will spread where the evidence may not travel with it, to serve as an antidote to the mischief; for certainly the scene which we have this day witnessed can never be imagined in France or in Europe—where the spirit of our law is known and understood;—it never will be credited that all this serious process has no foundation either in fact or probability, and that it stands upon the single evidence of a common soldier, or rather a common vagabond, discharged as unfit to be a soldier;—of a wretch, lost to all reverence for God and religion, who avows, that he has none for either, and who is incapable of observing even common decency as a witness in the court:—this will never be believed; and the country, whose best strength at home and abroad is the soundness of all its members, will suffer from the very credit which Government will receive for the justice of this proceeding.

What then can be more beneficial than that *you* should make haste, as public and private men, to undeceive the world, to do justice to your fellow-subjects, and to vindicate your country?—what can be more beneficial, than that you, as honest men, should upon your oaths pronounce and record by your verdict, that, however Englishmen may differ in religious opinions, which in such a land of thinking ever must be the case;—that however they may separate in political speculations as to the wisest and best formation of a House of Commons;—that though some may think highly of the church and its establishment, whilst others, but with equal sincerity, prefer the worship of

God with other ceremonies, or without any ceremonies;—that though some may think it unsafe to touch the constitution at this particular moment, and some, that at no time it is safe to touch it, while others think that its very existence depends upon immediate reformation:—what, I repeat, can be more beneficial, than that your verdict should establish, that though the country is thus divided upon those political subjects, as it ever has been in every age and period of our history, yet that we all recollect our duty to the land which our fathers have left us as an inheritance;—that we all know and feel we have one common duty and one common interest? This will be the language of your verdict, whatever you yourselves may think upon these topics connected with, but still collateral to the cause:—whether you shall approve or disapprove of the opinions or objects of the Defendants, I know that you will still with one mind revolt with indignation at the evidence you have heard, when you shall have heard also the observations I have to make upon it, and what is far more important, the facts I shall bring forward to encounter it. To these last words I beg your particular attention:—I say, when you shall hear *the facts with which I mean to encounter the evidence*. My learned friend has supposed that I had nothing wherewith to support the cause, but by railing at his witness, and endeavouring to traduce his character by calling others to reproach it: he has told you, that I could encounter his testimony by *no one fact*, but that he had only to apprehend the influence which my address might have upon you;—as if

I, an utter stranger here, could have any possible weight or influence, to oppose to him, who has been so long known and honoured in this place.

But although my learned friend seems to have expected no adverse evidence, he appears to have been apprehensive for the credit and consistency of his own; since he has told you that we have drawn this man into a lure not uncommon for the purpose of entrapping witnesses into a contradiction of testimony;—that we have ensnared him into the company of persons who have drawn him in by insidious questions, and written down what he has been made to declare to them in destruction of his original evidence, for the wicked purpose of attacking the sworn testimony of truth, and cutting down the consequences which would have followed from it to the Defendants. If such a scene of wickedness had been practised, it must have been known to the witness himself; yet my learned friend will recollect, that though he made this charge in his hearing before his examination, he positively denied the whole of it;—I put it to him point by point, pursuing the opening as my guide,—and he denied that he had been drawn into any lure;—he denied that any trap had been laid for him;—he denied that he had been asked any questions by any body.—If I am mistaken, I desire to be corrected, and particularly so by my learned friend, because I wish to state the evidence as it was given.—He has then denied all these things; he has further sworn that he never acknowledged to Mr. Walker that he had wronged or injured him, or that the evidence he had given against

him was false ;—that he never had gone down upon his knees in his presence, to implore his forgiveness ; —that he never held his hands before his face, to hide the tears that were flowing down his cheeks in the moment of contrition, or of terror at the consequence of his crimes : all this he has positively and repeatedly sworn in answer to questions deliberately put to him ; and instead of answering with doubt, or as trying to recollect whether any thing approaching such a representation had happened, he put his hands to his sides, and laughed, as you saw, at me who put the questions, with that sneer of contempt and insolence which accompanied the whole of his evidence, on my part at least of his examination :—if nothing therefore was at stake but the destruction of this man's evidence, and with it the prosecution which rests for its whole existence upon it, I should proceed at once to confound him with testimony, the truth of which my learned friend himself will, I am sure, not bring into question ; but as I wish the whole conduct of my Clients to stand fairly before you, and not to rest merely upon positive swearing destructive of opposite testimony ; and as I wish the evidence I mean to bring before you, and the falsehood of that which it opposes, to be clearly understood ; I will state to you how it has happened that this strange prosecution has come before you.

The town of Manchester has been long extremely divided in religious and civil opinions ; and while I wish to vindicate those whom I represent in this place, I desire not to inflame differences which I hope in a

short season will be forgotten; I am desirous, on the contrary, that every thing which proceeds from me may be the means of conciliating rather than exasperating dissensions which have already produced much mischief, and which perhaps, but for the lesson of to-day, might have produced much more.

Gentlemen, you all know that there have been for centuries past in this country various sects of Christians worshipping God in different forms, and holding a diversity of religious opinions; and that the law has for a long season deprived numerous classes, even of His Majesty's Protestant subjects, of privileges which it confers upon the rest of the public, setting as it were a mark upon them, and keeping them below the level of the community, by shutting them out from offices of trust and confidence in the country. Whether these laws be wise or unwise,—whether they ought to be continued or abolished, are questions for the Legislature, and not for us; but thus much I am warranted in saying, that it is the undoubted privilege of every man or class of men in England, to petition Parliament for the removal of any system or law, which either actually does aggrieve, or which is thought to be a grievance:—impressed with the sense of this inherent privilege, this very Constitutional Society, which is supposed by my learned friend the Attorney General to have started up on the breaking out of the war with France, for the purpose of destroying the constitution—this very society owed its birth to the assertion of this indisputable birthright of Englishmen, which the authors of this prosecution most rashly thought proper

to stigmatize and resist. It is well known that in 1790 the Dissenters in the different parts of the kingdom were solicitous to bring before Parliament their application to put an end for ever to all divisions upon religious subjects, and to make us all, what I look forward yet to see, one harmonious body, living like one family together. It is also well remembered with what zeal and eloquence that great question was managed in the House of Commons by Mr. Fox, and the large majority with which the repeal of the Test Acts was rejected: it seems therefore strange that the period of this rejection should be considered as an æra either of danger to the church or of religious triumph to Christians; nevertheless, a large body of gentlemen and others at Manchester, whose motives I am far from wishing to scrutinize or condemn, considered this very wish of the Dissenters as injurious to their rights, and as dangerous to the church and state;—they published advertisements expressive of these sentiments, and the rejection of the bill in the Commons produced a society styled the Church and King Club, which met for the first time to celebrate what they called the glorious decision of the House of Commons in rejecting the prayer of their dissenting brethren.

Gentlemen, it is not for me to say, that it was unjust or impolitic in Parliament to reject the application; but surely I may without offence suggest, that it was hardly a fit subject of triumph, that a great number of fellow-subjects, amounting, I believe, to more than a million in this country, had miscarried in an object which they thought beneficial, and which they had a

most unquestionable right to submit to the government under which they lived ; yet for this cause alone,—France and every other topic of controversy being yet unborn—the Church and King were held forth to be in danger ; a society was instituted for their protection, and an uniform appointed with the church of Manchester upon the button.

Gentlemen, without calling for any censure upon this proceeding, but leaving it to every man's own reflection, is it to be wondered at or condemned, that those who thought more largely and liberally on subjects of freedom both civil and religious, but who found themselves persecuted for sentiments and conduct the most avowedly legal and constitutional, should associate for the support of their rights and privileges as Englishmen, and assemble to consider how they might best obtain a more adequate representation of the people of Great Britain in Parliament ?

Gentlemen, this society continued with these objects in view until the issuing of the proclamation against Republicans and Levellers, calling upon the magistrates to exert themselves throughout the kingdom to avert some danger with which, it seems, our rulers thought this kingdom was likely to be visited. Of this danger, or the probability of it, either *generally* or at Manchester *in particular*, my learned friend has given no evidence from any quarter but that of Mr. Dunn ;—he has not proved that there has been in any one part of the kingdom any thing which could lead Government to apprehend that meetings existed for the purposes pointed at ;—but that is out of the question ;—

Government had a right to think for itself, and to issue the proclamation. The publicans however (as it appears upon the cross-examination of the witness), probably directed by the magistrates, thought fit to shut up their houses opened by immemorial law to all the King's subjects, and to refuse admission to all the gentlemen and tradesmen of the town who did not associate under the banners of this Church and King club. This illegal proceeding was accompanied with an advertisement containing a vehement libel against all those persons, who, under the protection of the laws, thought themselves as much at liberty to consider their various privileges, as others were to maintain the establishment of the church. Upon this occasion Mr. Walker honourably stood forth, and opened his house to this Constitutional Society at a time when they must otherwise have been in the streets by a combination of the publicans to reject them. Now, Gentlemen, I put it to you as men of honour, whether it can be justly attributed to Mr. Walker as seditious, that he opened his house to a society of gentlemen and tradesmen,—whose good principles he was acquainted with,—who had been wantonly opposed by this Church and King club, whose privileges they had never invaded or questioned,—and against whom, in this day of trial, there is no man to be found who can come forward to impeach any thing they have done, or a syllable they have uttered. Vehement as the desire most apparently has been, to bring this gentleman and his associates, as they are called, to justice, yet not one magistrate,—no man of property or figure in this town or its neighbourhood,

—no person having the King's authority in the county has appeared to prove one fact or circumstance from whence even the vaguest suspicion could arise, that any thing criminal had been intended or transacted :—no constable, who had ever been sent to guard, lest the peace might be broken, or to make inquiries for its preservation ;—not a paper seized throughout England, nor any other prosecution instituted except upon the unsupported evidence of the same miserable wretch who stands before you ; the town, neighbourhood, and county, remaining in the same profound state of tranquillity as it is at the moment I am addressing you.

Gentlemen, when Parliament assembled at the end of 1792, previous to the commencement of the war, these unhappy differences were suddenly (and, as you will see, from no fault of Mr. Walker's) brought to the crisis which produced this trial :—a meeting was held in Manchester to prepare an address of thanks to the King for having embodied the militia during the recess of Parliament, and for having put the kingdom into a posture of defence. I do not seek to question the measure of Government which gave rise to this approbation, or the approbation itself which the approvers had a right to bestow ;—but others had an equal right to entertain other opinions. On all public measures the decision undoubtedly is with Government ; but the people at the same time have a right to think upon them, and to express what they think ;—surely war, of all other subjects, is one which the people have a right to consider ;—surely it can be no offence for those whose properties were to be taxed, and whose inhe-

ritances were to be lessened by it, to pause a little upon the eve of a contest, the end of which no man can foresee,—the expenses of which no man can calculate, or estimate the blood to flow from its calamities. Surely it is a liberty secured to us by the first principles of our constitution, to address the Sovereign, or instruct our representatives, to avert the greatest evil that can impend over a nation,

Gentlemen, one of those societies, called the Reformation Society, met to exercise this undoubted privilege, and in my mind upon the fittest occasion that ever presented itself; yet mark the moderation of Mr. Walker, whose violence is arraigned before you. Though he was no member of that body, and though he agreed in the propriety of the measure in agitation, yet he suggested to them, that their opposition might be made a pretence for tumult,—that tranquillity in such a crisis was by every means to be promoted, and therefore advised them to abstain from the meeting; so that the other meeting was left to carry its approbation of Government and of the war, without a dissenting voice. If ever therefore there was a time when the Church and King might be said to be out of danger at Manchester, it was at this moment:—yet *on this very day* they hoisted the banners of alarm to both;—they paraded with them through every quarter of the town;—mobs by degrees were collected, and in the evening of this very eleventh of December, the houses of Mr. Walker and others were attacked. You will observe, that *before this day* no man has talked about arms at Mr. Walker's:—if an honourable gentle-

man upon the Jury who has been carefully taking notes of the evidence, will have the goodness to refer to them, he will find that it was not till near a week after this (so Dunn expresses it), that a single firelock had been seen; nor indeed does any part of the evidence go back beyond this time, when Mr. Walker's house was thus surrounded and attacked by a riotous and disorderly mob. He was aware of the probable consequences of such an attack;—he knew, by the recent example of Birmingham, what he and others professing sentiments of freedom had to expect;—he therefore got together a few fire-arms, which he had long had publicly by him, and an inventory of which with the rest of his furniture at Barlow Hall, had been taken by a sworn appraiser, long before any thing connected with this Indictment had an existence; and with these, and the assistance of a few steady friends, he stood upon his defence. He was advised indeed to retire for safety; but knowing his own innocence, and recollecting the duty he owed to himself, his family, and the public, he declared he would remain there, to support the laws, and to defend his property,—and that he would perish, rather than surrender those privileges, which every member of the community is bound, both from interest and duty, to maintain:—to alarm the multitude, he fired from the windows over their heads, and dispersed them: but when, the next morning, they assembled in very great numbers before his house, and when a man got upon the churchyard wall, and read a most violent and inflammatory paper, inciting the populace to pull the house down;—Mr.

Walker, went out amongst them, and expostulated with them, and asked why they had disgraced themselves so much by attacking him the night before ; adding, that if he had done any of them, or any person whom they knew, any injury, he was, upon proof of it, ready to make them every satisfaction in his power : — he also told them, that he had fired upon them the night before, because they were mad as well as drunk ; that, if they attacked him again, he would, under the same circumstances, act as he had done before ; but that he was then alone and unarmed in the midst of them, and if he had done any thing wrong, they were then sober, and had him completely in their power.

Gentlemen, this was most meritorious conduct. You all live at a distance from the metropolis, and were probably, therefore, fortunate enough neither to be within or near it in 1780, when, from beginnings smaller than those which exhibited themselves at Birmingham, or even at Manchester, the metropolis of the country, and with it the country itself, had nearly been undone : the beginning of these things is the season for exertion : I shall never indeed forget what I have heard the late mild and venerable magistrate Lord Mansfield say upon this subject, whose house was one of the first attacked in London ; I have more than once heard him say, that perhaps some blame might have attached upon himself and others in authority, for their forbearance in not having directed force to have been *at the first moment* repelled by force, it being the highest humanity to check the infancy of tumults.

Gentlemen, Mr. Walker's conduct had the desired effect: he watched again on the 13th of December, but the mob returned no more, and the next morning the arms were locked up in a bedchamber in his house, where they have remained ever since, and where, of course, they never could have been seen by the witness, whose whole evidence commences above a week subsequent to the 11th of December, when they were finally put aside. This is the genuine history of the business; and it must therefore not a little surprise you, that when the charge is wholly confined to the use of arms, Mr. Law should not even have hinted to you that Mr. Walker's house had been attacked, and that he was driven to stand upon his defence, as if such a thing had never had an existence;—indeed the armoury which must have been exhibited in such a statement, would have but ill-suited the Indictment or the evidence, and I must therefore undertake the description of it myself.

The arms having been locked up as I told you, in the bedchamber, I was shown last week into this house of conspiracy,—treason,—and death, and saw exposed to view the mighty armoury which was to level the beautiful fabric of our constitution, and to destroy the lives and properties of ten millions of people.—It consisted, first, of six little swivels purchased two years ago at the sale of Livesey, Hargrave, and Co. (of whom we have all heard so much), by Mr. Jackson, a gentleman of Manchester, who is also one of the Defendants, and who gave them to Master Walker, a boy about ten years of age:—swivels, you know, are guns so called because

they turn upon a pivot; but these were taken off their props, were painted, and put upon blocks resembling carriages of heavy cannon, and in that shape may be fairly called children's toys; you frequently see them in the neighbourhood of London adorning the houses of sober citizens, who, strangers to Mr. Brown and his improvements, and preferring grandeur to taste, place them upon their ramparts at Mile-End or Islington. Having, like Mr. Dunn (I hope I resemble him in nothing else), having, like him, served His Majesty as a soldier (and I am ready to serve again if my country's safety should require it), I took a closer review of all I saw, and observing that the muzzle of one of them was broke off, I was curious to know how far this famous conspiracy had proceeded, and whether they had come into action, when I found the accident had happened on firing a *feu de joie* upon His Majesty's happy recovery, and that they had been afterwards fired upon the Prince of Wales' birthday. These are the only times, that, in the hands of these conspirators, these cannon, big with destruction, had opened their little mouths;—once to commemorate the indulgent and benign favour of Providence in the recovery of the Sovereign, and once as a congratulation to the Heir Apparent of his crown on the anniversary of his birth.

I went next, under the protection of the master-general of this ordnance (Mr. Walker's chambermaid), to visit the rest of the formidable array of death, and found a little musketoon about so high (*describing it*); I put my thumb upon it, when out started a little

bayonet like the Jack-in-a-box which we buy for children at a fair : in short, not to weary you, Gentlemen, there was just such a parcel of arms of different sorts and sizes as a man collecting amongst his friends, for his defence against the sudden violence of a riotous multitude, might be expected to have collected : here lay three or four rusty guns of different dimensions, and here and there a bayonet or broad-sword, covered over with dust and rust, so as to be almost undistinguishable ; for, notwithstanding what this infamous wretch has sworn, we will prove by witness after witness, till you desire us to finish, that they were principally collected on the 11th of December, the day of the riot, and that from the 12th in the evening, or the 13th in the morning, they have lain untouched, as I have described them ;—that their use began and ended with the necessity, and that, from that time to the present, there never has been a fire-arm in the warehouse of any sort or description. This is the whole on which has been built a proceeding that might have brought the Defendants to the punishment of death, for both the charge and the evidence amount to high treason,—high treason indeed, under almost every branch of the statute ; since the facts amount to levying war against the King—by a conspiracy to wrest by force the government out of his hands,—to an adherence to the King's enemies,—and to a compassing of his death, which is a necessary consequence of an invading army of republicans or of any other enemies of the state ;—yet notwithstanding the notoriety of these facts, the un-named prosecutors (and indeed I am

afraid to slander any man or body of men, by even a guess upon the subject) have been beating up as for volunteers, to procure another witness to destroy the lives of the gentlemen before you, against many of whom warrants for high treason were issued to apprehend them; Mr. Walker, among the rest, was the subject of such a warrant, and as soon as he knew it, he behaved (as he has throughout) like a man and an Englishman; he wrote immediately to the Secretary of State, who was summoned here to-day, and whose absence I do not complain of, because we have by consent the benefit of his testimony; he wrote three letters to Mr. Dundas, one of which was delivered by Mr. Wharton, informing him that he was in London on his business as a merchant;—that if any warrant had been issued against him, he was ready to meet it, and for that purpose delivered his address where it might be executed. This Mr. Walker did when the prosecutors were in search of another witness, and when this Mr. Dunn was walking like a tame sparrow through the New Bailey, fed at the public or some other expense, and suffered to go at large, though arrested upon a criminal charge, and sent into custody under it.

And to what other circumstances need I appeal for the purity of the Defendants, than that, under the charge of a conspiracy, extensive enough to comprehend in its transactions (if any existed) the whole compass of England, the tour of which was to have been made by Mr. Yorke, there has not been one man found to utter a syllable about them, no not one man,

thanks be to God, who has so framed the characteristics of Englishmen, except the solitary infamous witness before you, who, from what I heard since I began to address you, may have spoken the truth when he claimed my acquaintance, as I have reason to think he has seen me before in a criminal court of justice.

Having now, for the satisfaction of the Defendants rather than from the necessity of the case, given you an account of their whole proceedings, as I shall establish them by proof; let us examine the evidence that has been given against them, and see how the truth of it could stand with reason or probability, supposing it to have been sworn to by a witness the most respectable.

According to Dunn's own account, Mr. Walker had not been at the first meeting, so that when he first saw Dunn he did not know either his person or his name; he might have been a spy (God knows there are enow of them), and at that season in particular, informers were to be expected:—Mr. Walker is supposed to have said to him, “What is your business here?” to which he answered, “I am going to the society,” which entitled him at once to admission without farther ceremony;—there was nobody to stop him:—was he asked his name?—was he ballotted for?—was he questioned as to his principles? No, he walked in at once; but first, it seems, Mr. Walker, who had never before seen him, inquired of him the news from Ireland (observing by his voice that he was an Irishman), and asked what the volunteers were about, as if Mr. Walker could possibly suppose that such a person was likely to have been in a correspondence with Ireland, which told him

more than report must have told every body else. Mr. Dunn tells you indeed he was no such person, he was a friend, as he says, to the King and Constitution, which Mr. Walker would have found by asking another question ; but, without further inquiry, he is supposed to have said to him at once, “ We shall overthrow the constitution by and by ;” which the moment Dunn had heard, up walked that affectionate subject of our Sovereign Lord the King into Mr. Walker’s house, where the constitution was to be so overthrown ; but then he tells you he thought there was no harm to be done, that it was only for the benefit of the poor, and the public good ;—but how could he think so after what he had that moment heard ? but he did not know, it seems, what Mr. Walker meant. Gentlemen, do you collect, from Mr. Dunn’s discourse and deportment to-day, that he could not tell but that a man meant good when he had heard him even express *a wish* to overthrow the government ? would you pull a feather out of a sparrow’s wing upon the oath of a man, who swears that he believed a person to have been a good subject in the very moment he was telling him of an intended rebellion ? But why should I fight a phantom with argument ?—Could any man but a driveller, have possibly given such an answer, as is put into Mr. Walker’s mouth, to a man he had never seen in his life ? However many may differ from Mr. Walker in opinion, every body, I believe, will admit that he is an acute intelligent man, with an extensive knowledge of the world, and not at all likely to have conducted himself like an idiot. What follows next ?—another night he

went into the warehouse, where he saw Mr. Yorke called to the chair, who said he was going the tour of the kingdom, in order to try the strength of the different societies, to join fifty thousand men that were expected to land from France in this country, and that Mr. Walker then said, “Damn all kings—I know our “King has seventeen millions of money in the Bank “of Vienna, although he won’t afford any of it to the “poor.” Gentlemen, is this the language of a man of sense and education? If Mr. Walker had the malignity of a demon, would he think of giving effect to it by such a senseless lie?—When we know that, from the immense expense attending His Majesty’s numerous and illustrious family and the great necessities of the state, he has been obliged over and over again to have recourse to the generosity and justice of Parliament to maintain the dignity of the Crown, could Mr. Walker ever have thought of inventing this nonsense about the Bank of Vienna, when there is a Bank too in our own country, where he might legally invest his property for himself and his heirs? But Mr. Walker did not stop there;—he went on and said, “I should think no more “of taking off the King’s head than I should of tearing “this piece of paper.” All this happened soon after his admission; yet this man, who represents himself to you upon his oath this day, as having been uniformly a friend to the constitution, as far as he understood it;—as having left the society as soon as he saw their mischievous inclinations,—and as having *voluntarily* informed against them,—I say this same friend of the constitution tells you, almost in the same breath, that

he continued to attend their meetings from thirty to forty times, *where high treason was committing with open doors*; and that, instead of giving information of his own free choice, he was arrested in the very act of distributing some seditious publication.

Gentlemen, it is really a serious consideration, that upon such testimony a man should even be put upon his defence in the courts of this country;—upon such principles what man is safe? I was indeed but ill at ease myself when Mr. Dunn told me he knew me better than I supposed. What security have I at this moment that he should not swear that he had met me under some gateway in Lancaster, and that I had said to him, “Well, Dunn, I hope you will not swear “against Mr. Walker, but that you will stick to the “good cause: damn all kings: damn the constitution:” if the witness were now to swear this, into gaol I must go; and if my Client is in danger from what has been sworn against *him*, what safety would there be for *me*?—the evidence would be equally positive, and I am equally an object of suspicion as Mr. Walker: it is said of *him*, that he has been a member of a society for the reform of Parliament; so have *I*, and so am *I* at this moment, and so at all hazards I will continue to be, and I will tell you why, Gentlemen—because I hold it to be essential to the preservation of all the ranks and orders of the state,—alike essential to the prince and to the people: I have the honour to be allied to His Majesty in blood, and my family has been for centuries a part of what is now called the aristocracy of the country; I can therefore have no interest in the destruction of the constitution.

In pursuing the probability of this story (since it must be pursued), let us next advert to whether any thing appears to have been done in other places which might have been exposed by this man's information. The whole kingdom is under the eye and dominion of magistracy, awakened at that time to an extraordinary vigilance; yet has any one man been arrested even upon the suspicion of any correspondence with the societies of Manchester, good, bad, or indifferent? or has any person within the four seas come to swear that any such correspondence existed? So that you are desired to believe, upon Mr. Dunn's single declaration, that gentlemen of the description I am representing, without any end or object, or concert with others, were resolved to put their lives into the hands of any miscreant who might be disposed to swear them away, by holding public meetings of conspiracy with open doors, and in the presence of all mankind, liable to be handed over to justice every moment of their lives, since every tap at the door might have introduced a constable as readily as a member; and, to finish the absurdity, these gentlemen are made to discourse in a manner that would disgrace the lowest and most uninformed classes of the community.

Let us next see what interest Mr. Walker has in the proposed invasion of this peaceable country: has Mr. Law proved that Mr. Walker had any reason to expect protection from the French from any secret correspondence or communication more than you or I have, or that he had prepared any means of resisting the troops of this country?—how was he to have welcomed these

strangers into our land?—what, with this dozen of rusty muskets, or with those conspirators whom he exercised?—but who are they?—they are, it seems, “to the Jurors unknown,” as my learned friend has called them who drew this Indictment, and he might have added, *who will ever remain unknown to them.*—But has Mr. Walker nothing to lose, like other men who dread an invasion? He has long had the acquaintance and friendship of some of the best men in this kingdom, who would be destroyed if such an invasion should take place.—Has he, like other men, no ties of a nearer description? Alas, Gentlemen! I feel at this moment that he has many: Mr. Dunn told you that I was with Mr. Walker, at Manchester; and it enables me to say, of my own knowledge, that it is impossible he could have had the designs imputed to him. I have been under his roof, where I have seen him the husband of an amiable and affectionate woman, and the happy parent of six engaging children; and it hurts me not a little to think what they must feel at this moment. Before prosecutions are set on foot, those things ought to be considered;—we ought not, like the fool in the Proverbs, to scatter firebrands and death, and say, “Am I not in sport?” Could we look at this moment into the dwelling of this unfortunate gentleman, for so I must call him, I am persuaded the scene would distress us;—his family cannot but be unhappy;—they have seen prosecutions equally unjust as even this is, attended with a success of equal injustice, and we have seen those proceedings, I am afraid by those who are at the bottom of this Indict-

ment, put forward for your imitation. I saw to my astonishment, at Preston, where, as a traveller, I called for a newspaper, that this immaculate society (the Manchester Church and King Club) had a meeting lately, and had published to the world the toasts and sentiments which they drank; some of them I like, some of them deserve reprobation: "The Church and King;" very well. "The Queen and Royal Family;" be it so. "The Duke of York and the Army;" be it so. But what do you think came next?

(*Here Mr. Justice Heath interrupted Mr. Erskine, by saying, "We are not to go into this, of which you cannot give evidence"*).

Mr. Erskine. I don't know what effect these publications may have upon the administration of justice; why drink "*The Lord Advocate and the Court of Justiciary in Scotland*," just when your Lordship is called upon to administer justice according to the laws of *England*? if I had seen the King and his Judges upon the northern circuit published as a toast—

Mr. Justice Heath. You know you cannot give this in evidence.

Mr. Erskine. Gentlemen, considering the situation in which my Clients stand at this moment, I expressed the idea which occurred to me, and which I thought it right not to suppress:—but let it pass;—this is not the moment for controversy;—it is my interest to submit to any course his Lordship may think proper to dictate; the evidence is more than enough for my purpose;—so mainly improbable, so contrary to every thing in the course of human affairs, that I know you

will reject it, even if it stood unanswered ; what then will you say, when I shall prove to you by the oaths of the various persons who attended these societies that no propositions of the sort insinuated by this witness ever existed ;—that no hint, directly or indirectly, of any illegal tendency, was ever whispered ;—that their real objects were just what were *openly professed*, be they right or wrong, be they wise or mistaken, namely, *reformation in the constitution of the House of Commons*, which my learned friend admitted they had a right by constitutional means to promote. This was their object ;—they neither desired to touch the King's authority, nor the existence or privileges of the House of Lords ; but they wished, that those numerous classes of the community, who (by the law as it now stands) are excluded from any share in the choice of members to the Parliament, should have an equal right with others, in concerns where their interests are equal. Gentlemen, this very county furnishes a familiar instance ; there are, I believe, at least thirty thousand freeholders in Lancashire, each of whom has a vote for two members of Parliament ; and there are two boroughs within it (if I mistake not), Clithero and Newton, containing a handful of men who are at the beck of *two individuals* ; yet these two little places send for themselves, *or rather for these two persons*, two members each, which makes four against the whole power and interest of this county in Parliament, touching any measure, how deeply soever it may concern their prosperity. Can there be any offence in meeting together to consider of a representation to

Parliament, suggesting the wisdom of alteration and amendment in such a system?

Mr. Justice Heath.—*There can be no doubt but that a petition to Parliament, for reform or any thing else, can be no offence.*

Mr. Erskine.—Gentlemen, I expected this interruption from the learning of the Judge; certainly it can be no offence, and consequently my Clients can be no offenders.

Having now exposed the weakness of Dunn's evidence, from its own intrinsic defects, and from the positive contradiction every part of it is to receive from many witnesses, I shall conclude with the still more positive and unequivocal contradiction which the whole of it has received from Dunn himself.—You remember that I repeatedly asked him whether he had not confessed that the whole he had sworn to-day was utterly false; whether he had not confessed it to be so with tears of contrition, and whether he had not kneeled down before Mr. Walker, to implore his forgiveness. My learned friend, knowing that this would be proved upon him, made a shrewd and artful observation to avoid the effects of it;—he said, that such things had fallen often under the observation of the Court upon the circuit, where witnesses had been drawn into similar snares by artful people to invalidate their testimony;—this may be true, but the answer to its application is, that not only the witness himself has positively denied that any such snare was laid for him, but the witnesses I have to call, both in respect of number and credit, will put a total end to such a

suggestion ; if I had indeed but one witness, my friend the Attorney General might undoubtedly put it to you in reply, whether his or mine was to be believed ; but I will call to you, *not one* but *four or five* ; or, if necessary, *six witnesses*, ABOVE ALL SUSPICION, in whose presence Dunn voluntarily confessed the falsehood of his testimony, and, with tears of apparent repentance, offered to make any reparation to these injured and unfortunate Defendants.—This I pledge myself to prove to your satisfaction.

Gentlemen, the object of all public trial and punishment is the security of mankind in social life. We are not assembled here for the purposes of vengeance, but for the ends of justice ;—to give tranquillity to human life, which is the scope of all government and law ;—you will take care therefore, how, in the very administration of justice, you disappoint that which is the very foundation of its institution ;—you will take care, that in the very moment you are trying a man as a disturber of the public happiness, you do not violate the rules which secure it.

The last evidence I have been stating ought by itself to put an instant end to this cause : I remember a case, very lately, which was so brought to its conclusion, where, upon a trial for perjury of a witness who had sworn against a captain of a vessel in the African trade, it appeared that the witnesses who swore to the perjury against the Defendants, had themselves made deliberate declarations, which materially clashed with the testimony they were giving ; Lord Kenyon, who tried the cause, would after this

proceed no further, and asked me, who was counsel for the prosecution, whether I would urge it further, saying emphatically, what I hope every Judge under similar circumstances will think it his duty to say also, "No man ought or can be convicted in England, unless the Judge and the Jury have *a firm assurance* that innocence cannot by any possibility be the victim of conviction and sentence." And how can the Jury or his Lordship have that assurance here, when the only source of it is brought into such serious doubt and question? Upon the whole, then, I cannot help hoping, that my friend the Attorney General, when he shall hear my proofs, will feel that a prosecution like this ought not to be offered for the seal and sanction of your verdict. Unjust prosecutions lead to the ruin of all governments. Whoever will look back to the history of the world in general, and of our own particular country, will be convinced, that exactly as prosecutions have been cruel and oppressive, and maintained by an inadequate and unrighteous evidence, in the same proportion, and by the same means, their authors have been destroyed instead of being supported by them;—as often as the principles of our ancient laws have been departed from in weak and wicked times, so often the governments that have violated them have been suddenly crumbled into dust; and therefore wishing, as I most sincerely do, the preservation and prosperity of our happy constitution, I desire to enter my protest against its being supported by means that are likely to destroy it. Violent proceedings bring on the bitterness of retalia-

tion, until all justice and moderation are trampled down and subverted;—witness those sanguinary prosecutions previous to the awful period in the last century, when Charles the First fell: that unfortunate prince lived to lament those vindictive judgments by which his impolitic, infatuated followers imagined they were supporting his throne:—he lived to see how they destroyed it;—his throne, undermined by violence, sunk under him, and those who shook it were guilty in their turn (such is the natural order of injustice) not only of similar but of worse and more violent wrongs; witness the fate of the unhappy Earl of Strafford, who, when he could not be reached by the ordinary laws, was impeached in the House of Commons, and who, when still beyond the consequences of that judicial proceeding, was at last destroyed *by the arbitrary wicked mandate of the Legislature*. James the Second lived to ask assistance in the hour of his distress, from those who had been cut off from the means of giving it by unjust prosecutions; he lived to ask support from the Earl of Bedford, after his son the unfortunate Lord Russell had fallen under the axe of injustice: “I once had a son,” said that noble person, “who could have served your Majesty upon this occasion,” but there was then none to assist him.

I cannot possibly tell how others feel upon these subjects, but I do know how it is their interest to feel concerning them; we ought to be persuaded that the only way by which government can be honourably or safely supported, is by cultivating the love and affection of the people;—by showing them the value of the

constitution by its protection ;—by making them understand its principles by the practical benefits derived from them ;—and above all, by letting them feel their security in the administration of law and justice. What is it in the present state of that unhappy kingdom, the contagion of which fills us with such alarm, that is the just object of terror ?—what, but that accusation and conviction are the same, and that a false witness or power without evidence is a warrant for death ! Not so here ;—long may the countries differ ! and I am asking for nothing more, than that you should decide according to our own wholesome rules, by which our government was established, and by which it has been ever protected. Put yourselves, Gentlemen, in the place of the Defendants, and let me ask, if you were brought before your country, upon a charge supported by no other evidence than that which you have heard to-day, and encountered by that which I have stated to you, what would you say, or your children after you, if you were touched in your persons or your properties by a conviction ?—may you never be put to such reflections, nor the country to such disgrace ! The best service we can render to the public is, that we should live like one harmonious family, that we should banish all animosities, jealousies, and suspicions of one another ; and that, living under the protection of a mild and impartial justice, we should endeavour, with one heart, according to our best judgments, to advance the freedom and maintain the security of Great Britain.

Gentlemen, I will trouble you no further ; I am

afraid indeed I have too long trespassed on your patience, I will therefore proceed to call my witnesses.

On the examination of the witnesses, to the matters mentioned by Mr. Erskine in his Speech, the witness for the Crown, Thomas Dunn, was so entirely contradicted, that Mr. Law interposing, in the manner stated in the Preface, the trial ended, and Mr. Walker and the other Defendants were acquitted.

THE
TRIAL OF THOMAS HARDY,
FOR HIGH TREASON,

AT THE SESSIONS HOUSE IN THE OLD BAILEY.

The Trial began on the 28th of October, and ended on the 5th of
November, 1794.

SUBJECT OF THE TRIAL, &c.

WE have not been without considerable difficulties in preparing the introduction to Mr. Erskine's Speech upon this most memorable State Trial.

It was our original intention, as we have before stated, to have published such of Mr. Erskine's Speeches as we were able to collect, in the same manner as those of the Master of the Rolls in Ireland had been printed in Dublin, which led, as we have said, to the present publication—prefixing only, as in that collection, a short account of the occasions on which they were delivered. But as we advanced in the work, we found some of the Speeches, which we had collected, so closely connected with political differences in our own times, that, to avoid even the appearance of partiality, or of any desire to render the work subservient to the sentiments or views of any particular class of persons, however eminent;—above all, to avoid the most distant appearance of entering into the *imputed* or *supposed* designs of the persons prosecuted by Government, and defended in the Speeches in question, we found it advisable, because in those instances practicable, to print not only the Speeches for the Crown, but the whole substance of the evidence. This could not be done, upon

the present occasion, without printing the whole Trial, which occupies three large volumes : yet, to give to Mr. Erskine's Speech—the publication of which is our principal design—its true spirit and effect, we found that it would be necessary to explain the nature of the arguments it opposed, and of the evidence which it appealed to, and had prepared a concise statement of the whole case.—Still apprehensive, however, that we might be suspected of leaning to the side of the parties accused by Government—and be charged with giving a garbled publication from motives foreign to our professions—we resolved to print the entire Speech of the Attorney General, in which he detailed the whole body of the evidence, and also the law respecting high treason, as he meant to apply it against the Prisoners, which, with the answer to it by Mr. Erskine, brings forward the whole outline of this interesting proceeding.

Never, perhaps, were any persons accused of high treason (certainly not since the government became settled at the Revolution) exposed to such great difficulties in making their defence.—It will be seen by the following Speeches, and by the Indictment prefixed to them, that the Prisoners were charged with compassing and imagining the death of the King, the overt act being a conspiracy, which, though masked under the pretence of procuring by legal means a reform in the Commons House of Parliament, had for its real object the subversion by rebellious force of the whole frame of the constitution of the country.

In support of this Indictment it will be seen by the following Speeches, that the evidence for the Crown was divided into two distinct branches, viz. to establish, first, that such a conspiracy existed, and secondly, to prove that the prisoners were parties to it. This course of proceeding had been sanctioned by the opinions of the Judges upon other trials, but the adoption of it upon this occasion, however legal, undoubtedly exposed the Prisoners to great peril of pre-

judgment, because almost the whole of the evidence given by the Crown against them had been collected by both Houses of Parliament just before the trial, and printed by their authority, and a Statute* had even been passed, declaring that the treacherous conspiracy, which had constituted the first and very important branch of the evidence, did in fact exist within the kingdom. We say a very important branch of the evidence, because undoubtedly, if the Jury had considered that the evidence supported the truth of the preamble to the Act of Parliament, the Prisoners must have been in a manner without a defence. Authority was also given to detain, without bail, persons already in custody, on suspicion of being engaged in the above conspiracy, or who should be thereafter committed on that account.

With regard to this Act of Parliament, it is impossible, on the one hand, to deny the constitutional competency of Parliament to declare the existence of a dangerous and extended conspiracy, endangering not only the safety, but the very existence of the State. On the other hand, the persons who may become obnoxious to suspicion, and be subjected to a public prosecution in consequence of such a legislative proceeding, come to a trial under seemingly insurmountable disadvantages.

In the very case before us, the two Houses of Parliament had collected and arranged the greater part of the written evidence afterwards produced by the Crown against the Prisoners, and in the preamble of the Act had given it the character of a detestable conspiracy, to subvert the monarchy, although, as has been already stated, the inquiry of the Jury was to be divided into two branches—First, whether the evidence,

* 34 Geo. III. c. 54. The preamble to the Bill states, that
“whereas a treacherous and detestable conspiracy has been formed
“for subverting the existing laws and constitution, and for introducing the system of anarchy and confusion, which has so lately
“prevailed in France,” &c.

great part of which had been so collected and arranged in Parliament and published, substantiated the declaration made in the preamble of the Bill, of the existence of such a conspiracy to subvert the Government: and secondly, whether the Prisoners had any and what share in it. Now, it is most obvious, that if, in deference to the judgment of Parliament, the first part of this division had been found by the Jury, and the law of high treason, as stated by the Counsel for the Crown, had been adopted, the Prisoners could scarcely have had any defence, as they then must have been taken, upon the whole of the evidence, to have been privy to proceedings throughout the whole kingdom, directed to the subversion of the monarchy, and destruction of the King.

All that can be said upon such a case is, first, that dependence must be had upon the sacred trust of the Legislature, not without urgent necessity to adopt such a proceeding, and carefully to consider the fair result of the evidence, when made the foundation of an Act of Parliament: and secondly, that the British constitution provides for the safety of all who have the happiness to live under its protection, by giving to twelve men, to be taken from the mass of the people, the privilege and the duty to sit in judgment upon all that the authority of Parliament may have decided to be the *fact*, and all that the learning of the Judges may consider to be the application of the *law*.

In that respect, whatever may be the merits of this case, and whatever, amidst the variety of judgments in a free country, may be the prevailing opinion concerning it, the trial by Jury must ever be dear to Englishmen.—The verdict of Acquittal, instead of giving encouragement to whatever spirit of sedition might have existed at that period, produced an universal spirit of content and confidence in the people. Nothing indeed could more properly excite such sentiments, than so memorable a proof of safety under the laws.

SESSION HOUSE IN THE OLD BAILEY,

Saturday, October 25th, 1794.

PRESENT,

Lord Chief Justice EYRE ;

Lord Chief Baron MACDONALD ;

Mr. Baron HOTHAM ;

Mr. Justice BULLER ;

Mr. Justice GROSE ;

And others His Majesty's Justices, &c.

THOMAS HARDY, JOHN HORNE TOOKE, JOHN AUGUSTUS BONNEY, STEWART KYD, JEREMIAH JOYCE, THOMAS HOLCROFT, JOHN RICHTER, JOHN THELWALL, and JOHN BAXTER, were arraigned, and severally pleaded Not guilty.

The Indictment charged, that the Prisoners, being subjects of our Lord the King, not having the fear of God in their hearts, nor weighing the duty of their allegiance, but being moved and seduced by the instigation of the devil, as false traitors against our said Lord the King, their supreme, true, lawful, and undoubted lord, and wholly withdrawing the cordial love and true and due obedience which every true and faithful subject of our said Lord the King should and of right ought to bear towards our said Lord the King, and contriving, and with all their strength intending, traitorously to break and disturb the peace and common tranquillity of this kingdom of Great Britain, and to stir, move, and excite insurrection, rebellion, and war against our said Lord the King

within this kingdom, and to subvert and alter the legislature, rule, and government now duly and happily established in this kingdom, and to depose our said Lord the King from the royal state, title, power, and government of this kingdom, and to bring and put our said Lord the King to death, on the first day of March, in the thirty-third year of the reign of our Sovereign Lord the now King, and on divers other days and times, maliciously and traitorously, with force and arms, &c. did amongst themselves, and together with divers other false traitors, to the said Jurors unknown, conspire, compass, imagine, and intend to stir up, move, and excite insurrection, rebellion, and war against our said Lord the King, within this kingdom of Great Britain, and to subvert and alter the legislature, rule, and government now duly and happily established within this kingdom of Great Britain, and to depose our said Lord the King from the royal state, title, power, and government of this kingdom, and to bring and put our said Lord the King to death. And that to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they, with force and arms, maliciously and traitorously did meet, conspire, consult, and agree among themselves, and together with divers other false traitors, to the said Jurors unknown, to cause and procure a convention and meeting of divers subjects of our said Lord the King to be assembled and held within this kingdom, with intent and in order that the persons to be assembled at such convention and meeting should and

might wickedly and traitorously, without and in defiance of the authority, and against the will of the Parliament of this kingdom, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government now duly and happily established in this kingdom, and depose and cause to be deposed our said Lord the King from the royal state, title, power, and government thereof. And further to fulfil, perfect, and to bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to assemble such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to accomplish the same purposes, they, together with divers other false traitors, to the Jurors unknown, maliciously and traitorously did compose and write, and did then and there maliciously and traitorously cause to be composed and written, divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, and did then and there maliciously and traitorously publish, and did then and there maliciously and traitorously cause to be published, divers other books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, the said books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings so respectively composed, written, published, and caused to be composed, written, and published, purporting and containing therein, among other things, incitements, encouragements, and exhortations to move, induce, and persuade the subjects of our said Lord the King to choose, depute, and

send, and cause to be chosen, deputed, and sent, persons as delegates, to compose and constitute such convention and meeting as aforesaid, to be so holden as aforesaid, for the traitorous purposes aforesaid. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to assemble such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to accomplish the same purposes, they did meet, consult, and deliberate among themselves, and together with divers other false traitors, to the said Jurors unknown, of and concerning the calling and assembling such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and how, when, and where such convention and meeting should be assembled and held, and by what means the subjects of our said Lord the King should and might be induced and moved to send persons as delegates to compose and constitute the same. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, and in order the more readily and effectually to assemble such convention and meeting as aforesaid, for the traitorous purposes aforesaid, and thereby to accomplish the same purposes, maliciously and traitorously did consent and agree that the said Jeremiah Joyce, John Augustus Bonney, John Horne Tooke, Thomas Wardle, Matthew Moore, John Thelwall, John Baxter, Richard Hodgson, one John Lovett, one William Sharp, and one John Pearson, should meet, confer, and co-operate among themselves, and together

with divers other false traitors, to the Jurors unknown, for and towards the calling and assembling such convention and meeting as aforesaid, for the traitorous purposes aforesaid. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they maliciously and traitorously did cause and procure to be made and provided, and did then and there maliciously and traitorously consent and agree to the making and providing of divers arms and offensive weapons, to wit, guns, muskets, pikes, and axes, for the purpose of arming divers subjects of our said Lord the King, in order and to the intent that the same subjects should and might unlawfully, forcibly, and traitorously oppose and withstand our said Lord the King in the due and lawful exercise of his royal power and authority in the execution of the laws and statutes of this realm, and should and might unlawfully, forcibly, and traitorously subvert and alter, and aid and assist in subverting and altering, without and in defiance of the authority and against the will of the Parliament of this kingdom, the legislature, rule, and government now duly and happily established in this kingdom, and depose, and aid and assist in deposing, our said Lord the King from the royal state, title, power, and government of this kingdom. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassing and imaginations aforesaid, they with force and arms maliciously and traitorously did meet, conspire, consult, and agree among themselves to raise, levy, and make insurrection, rebellion, and war within this kingdom

of Great Britain, against our said Lord the King. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they maliciously and traitorously did meet, conspire, consult, and agree amongst themselves, and together with divers other false traitors, to the Jurors unknown, unlawfully, wickedly, and traitorously to subvert and alter, and cause to be subverted and altered, the legislature, rule, and government now duly and happily established in this kingdom, and to depose and cause to be deposed our said Lord the King from the royal state, title, power, and government of this kingdom. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassing and imaginations aforesaid, and in order the more readily and effectually to bring about such subversion, alteration, and deposition as last aforesaid, they maliciously and traitorously did prepare and compose, and did then and there maliciously and traitorously cause and procure to be prepared and composed, divers books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, and did then and there maliciously and traitorously publish and disperse, and did then and there maliciously and traitorously cause and procure to be published and dispersed, divers other books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings, the said several books, pamphlets, letters, declarations, instructions, resolutions, orders, addresses, and writings so respectively prepared, composed, published, dispersed, and caused to

be prepared, composed, published, and dispersed, as last aforesaid, purporting and containing therein (amongst other things) incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of our said Lord and King to aid and assist in carrying into effect such traitorous subversion, alteration, and deposition as last aforesaid, and also containing therein (amongst other things) information, instructions, and directions to the subjects of our said Lord the King, how, when, and upon what occasions the traitorous purposes last aforesaid should and might be carried into effect. And further to fulfil, perfect, and bring to effect their most evil and wicked treason and treasonable compassings and imaginations aforesaid, they did maliciously and traitorously consent and agree to the procuring and providing arms and offensive weapons, to wit, guns, muskets, pikes, and axes, therewith to levy and wage war, insurrection, and rebellion against our said Lord the King within this kingdom, against the duty of their allegiance, against the peace of our said Lord the now King, his crown and dignity, and against the form of the statute in that case made and provided.

Mr. Attorney General stated to the Court, that he had been informed by the Counsel for the Prisoners, it was their wish that the Prisoners should be tried separately. It was therefore his intention to proceed first on the trial of Thomas Hardy.

At the request of the Prisoners' Counsel, the Court adjourned to Tuesday, October 28th.

On Tuesday, the 28th of October, the Attorney General opened the case for the Crown against the the Prisoner, Thomas Hardy, in the following Speech.

MAY IT PLEASE YOUR LORDSHIP, AND
GENTLEMEN OF THE JURY,

IN the course of stating what I have to offer to your most serious attention in this great and weighty cause, affecting, as it certainly does, the dearest interests of the community, affecting as you will remember throughout this business, every interest which can be valuable to the Prisoner at the bar, I shall have frequent occasion to call that anxious attention to the different parts of the Indictment which has just been opened to you. I forbear to do so at this moment, because I think that attention will be more usefully, both with respect to the public, and to the Prisoner, given and required in another part of what I am to address to you.

Gentlemen, the Prisoner, who is before you, stands charged (to state the Indictment generally) with the offence of compassing His Majesty's death; he was committed, upon that charge, by His Majesty's Privy Council: I will explain to you presently why I state this and the following facts. In consequence of the apprehension of this Prisoner, of several others charged by this Indictment, and of others whose names do not occur in this Indictment, proceedings of some notoriety were had in Parliament, and an Act passed, empowering His Majesty to detain such persons as he sus-

pected were conspiring against His Government. That Act has asserted, that a traitorous and detestable conspiracy had been formed for subverting the existing laws and government of the country, and for introducing that system of anarchy and confusion, which had so fatally prevailed in France: the Act, upon the spur of the emergency, which it contemplated, authorized the detention without bail, mainprize, or discharge, of the persons then in prison for high treason, or treasonable practices, or who should afterwards be committed, for high treason or treasonable practices, by warrants from the Privy Council or Secretary of State, until the first of February, 1795.

Gentlemen, this measure, which did not suspend the operation of the Habeas Corpus Act, that great palladium of English liberty, but with reference to particular persons, under particular commitments, for particular offences, is a measure never adopted in this country by Parliament but in cases, in which it is understood, after giving all possible attention to secure the right of the subject from being broken in upon, to be of the last possible necessity, and which has been repeatedly put in force, in the best of times, in such cases, where the wisdom of Parliament apprehended that it was matter of their duty to provide that the nation should part with its liberty for a while, that it might not lose it for ever.

Gentlemen, appearing before you this day in discharge of that duty, which I have been commanded to execute, and the execution of which appears to me to be absolutely necessary, you will collect from the

fact that I do appear here this day, that, according to the true constitutional meaning of such an Act of Parliament, it is not that the trial of such persons shall be delayed during the period of the suspension of the Act, but that the Act shall, with reference to the time of trial, be allowed, in the right execution of it, an operation only to that extent, in which the due consideration of the public safety, tempered with a due attention to the liberty of the individual subject, may require.

Gentlemen, the proceedings of the Legislature having been such as I have stated to you, His Majesty, constitutionally advised in the exercise of his duty, as the great conservator of the public peace, directed a commission to issue to inquire whether any such treasons, as the presumption of such a traitorous conspiracy must necessarily suppose to have existed had been committed by any persons, and by whom. In the execution of the duties of that commission, a Grand Jury of this county, upon their oaths, have declared that there is ground of charge against the person at the bar, and against others, sufficient to call upon them, in a trial to be had before you, their country, to answer to an accusation of high treason, in compassing His Majesty's death.

Gentlemen, I have stated these circumstances, that I may convey to you, in as strong terms as I can express it, this observation, that, as the proceedings of Parliament ought to have had (and I am persuaded, from the deliberation which they gave the subject, that they had) no influence upon the judicial mind of the

Grand Inquest, neither ought these proceedings to affect your inquiries, or to induce you to any determination, which you are to make upon the issue, which you are now sworn to try.

Gentlemen, there is no one circumstance of any proceedings before Parliament, with reference to which you ought to suffer yourselves to be influenced in the trial of this issue. It is obvious that such proceedings, as were had in Parliament, providing for great emergencies, may be required and authorized by the genuine spirit of the constitution, even in cases in which a Grand Jury might not, upon any thing that could be offered to their consideration, be justified in finding a bill: it is much more obvious, that, in a proceeding before you, a consideration of the wisdom and propriety of the acts of the Legislature is not called for.

You therefore, Gentlemen of the Jury, will consider the Prisoner as standing before you in full possession of an absolute right to the presumption of innocence, notwithstanding he is charged with guilt by this Indictment, as you will hear, except so far as that presumption is met by the single simple fact, that he has been accused by a Grand Jury of his country.

Gentlemen, before I conclude these general observations, you will permit me to say, on the other hand, that, if there has been any thing that has fallen under your observation, by act or publication—any attempt to make any impression upon the minds of those who are this day impannelled to try this great cause, to disparage that advice, which, under the most responsible sanction may be given you in matter of

law, to work in your minds any prejudice either against the Prisoner, or on the Prisoner's behalf; on the one hand I am perfectly sure that your integrity will be security to the public, that you will not permit any attempt of that kind to have any operation: on the other hand, Gentlemen of the Jury, I am equally sure that I need not ask from an English Jury, that they would permit no such attempt to prejudice them against the Prisoner at the bar,—no, not even an injudicious or ill-executed attempt, to influence them in his favour.

Gentlemen, in order to understand the law of treason, and the Indictment, I shall take the liberty first to state to you the character which I apprehend the King, for the protection of whose person and government the statute in question was made, has in the state and constitution of this country.

Gentlemen, the power of the State, by which I mean the power of making laws, and enforcing the execution of them when made, is vested in the King; enacting laws, in the one case, that is, in his legislative character, by and with the advice and consent of the Lords Spiritual and Temporal, and of the Commons in Parliament assembled, assembled according to the law and constitutional custom of England; in the other case, executing the laws, when made, in subservience to the laws so made, and with the advice, which the law and the constitution have assigned to him in almost every instance, in which they have called upon him to act for the benefit of the subject. The King's authority, under the check of constitutional and legal provisions

and limitations, convenes and regulates the duration and existence of Parliament, convening those whom, according to the law and custom of the country, he is bound to convene. The King, in his Parliament, sitting in his royal political capacity, and the Lords and Commons there assembled, form the great body politic of the kingdom, by which is exercised sovereign authority in legislation. Gentlemen, whilst the present law, the present constitution, and present government of Great Britain exist, no law can be made but by that authority ; no legislative power can be created against the will, and in defiance, of that authority. Whether in any, or in what circumstances, an attempt to create such a power is a treason forbidden by the statute of the 25th of Edward III. I propose to examine presently.

Gentlemen, as in the King the power of legislation is vested, as well as the executive power of the state, to be exercised with consent and advice, to be exercised according to those laws, which are the birthright and inheritance of the subject, having upon him the care and protection of the community ; to him, in return, the allegiance of every individual is, according to the law of England, due ; that allegiance, by which the subject is bound, in the language of the statutes of this country, to defend him “ against all traitorous conspiracies and attempts whatsoever, which shall be made “ against his person, his crown, or his dignity.”

Gentlemen, to ascertain to whom this care and protection is committed—to ascertain to whom this allegiance is due, the breach of which, according to the venerable Lord Hale, constitutes high treason, is

necessary to the peace of the community—to ascertain and to define accurately what constitutes a breach of that allegiance, is essentially and absolutely necessary to the security of all that our ancestors have claimed, demanded, and insisted upon, as the ancient, undoubted rights and liberties of our country.

Gentlemen, the former of these objects is secured by the law and constitutional custom of England; that law, which alike secures to you every right, whether it be a right of person, or of property. It has made the crown, which His Majesty wears, hereditary (and I beg your attention to that), subject to limitation by Parliament. The latter object has been most anxiously secured by the statute referred to in the Indictment, which brings forward the charge, the truth of which you are now to try.

Gentlemen, the King having this hereditary crown, the law and constitution have also ascertained his duties—those duties, which it is incumbent upon him to execute, for the benefit of the subject, in the execution of which duties they have aided him with counsel, and in consideration of which duties they have clothed him with dignity, and vested him with high prerogatives. With respect to the duties of the King, they attach upon him the instant he becomes such; from the moment that his title accrues, in the same instant the duty of allegiance (the breach of which is high treason) attaches to it; he recognises these as his duties in that oath, to which, throughout this business, I must again call your attention, in that oath which he is bound to take upon him, at his coronation, to promise

and swear “to govern the people of this country,” mark the words, Gentlemen, “*according to the statutes in Parliament agreed upon, and the laws and customs of the same*; that to his power he will cause law in justice and mercy to be administered; that he will maintain the laws of God and the true profession of religion established by law.”

Gentlemen, this oath, stated by that great and venerable constitutional Judge, Mr. Justice Foster, to be a solemn and a public recognition, not only of the duties of the King, but of the fundamental rights of the people, imposeth upon him (and throughout this case it cannot be too strongly recollected that it imposeth upon him) the most sacred obligation to govern according to the laws and statutes *in Parliament agreed upon, according to the laws and customs of the same*, and no other.

Gentlemen, addressing this Court, which is a court of law, in which you, the Jury, are sworn to make a true deliverance according to the law of England, can I impress it too strongly that it cannot be supposed by possibility—not by possibility—that the King can, consistently with his oath, and with the antecedent duty recognised in the explicit engagement, the terms of which you have heard, either act, or permit himself to act, as King, according to any rules of government, formed by any bodies of men, assuming any character, functions, or situations, those rules of government being meant to operate as laws, *the statutes agreed upon in Parliament, and the laws and customs of the same, only excepted?*

Gentlemen, it seems to me to follow, as a necessary conclusion from the reasoning, to be addressed to a court of law, not only that those, who conspire to remove the King out of the government altogether, but that those, who conspire to remove him, unless he will govern the people according to laws, which are not statutes in Parliament agreed upon, and the laws and customs of the same, or as the head of a government, framed and modified by any authority, not derived from that Parliament, do conspire to depose him from *that royal state, title, power, and government, which the Indictment mentions*, and to subvert and alter the rule and government *now established* in these kingdoms. He *ought not* so to govern—I say he cannot so govern—he is bound to resist such a project at the hazard of all its consequences; he must resist the attempt; resistance necessarily produces deposition, it endangers his life.

Gentlemen, to that King, upon whom these duties attach, the law and constitution, for the better execution of them, have assigned various counsellors, and responsible advisers: it has clothed him, under various constitutional checks and restrictions, with various attributes and prerogatives, as necessary for the support and maintenance of the civil liberties of the people: it ascribes to him sovereignty, imperial dignity, and perfection: and because the rule and government, as established in this kingdom, cannot exist *for a moment* without a person filling that office, and able to execute all the duties from time to time, which I have now stated, it ascribes to him also that he never ceases to

exist. In foreign affairs, the delegate and representative of his people, he makes war and peace, leagues and treaties : in domestic concerns, he has prerogatives, as a constituent part of the supreme legislature ; the prerogative of raising fleets and armies : he is the fountain of justice, bound to administer it to his people, because it is due to them ; the great conservator of public peace, bound to maintain and vindicate it ; every where present, that these duties may no where fail of being discharged ; the fountain of honour, office, and privilege ; the arbiter of domestic commerce, the head of the national church.

Gentlemen, I hope I shall not be thought to mispend your time in stating thus much, because it appears to me that the fact, that such is the character, that such are the duties, that such are the attributes and prerogatives of the King in this country (all existing for the protection, security, and happiness of the people in an established form of government), accounts for the just anxiety, bordering upon jealousy, with which the law watches over his person—accounts for the fact that, in every indictment, the compassing or imagining his destruction, or deposition, seems to be considered as necessarily co-existing with an intention to subvert the rule and government established in the country : it is a purpose to destroy and to depose *him*, in whom the supreme power, rule, and government, under constitutional checks and limitations, is vested, and by whom, with consent and advice in some cases, and with advice in all cases, the exercise of this constitutional power is to be carried on.

Gentlemen, this language, the tenour and charge of every indictment, is most clearly expressed by Lord Hale, when he says that high treason is an offence more immediately against the *person* and *government* of the King: I cannot state it more strongly to you, or from an authority, the authenticity of which will be less questioned by those who are to defend the Prisoner at the bar, than when I state to you the language of one of the counsel for Lord George Gordon upon the last trial for high treason; indeed it is no more than what follows the law of England, as delivered by all those great lawyers, whose authority, I am persuaded, will not be attempted to be shaken in the course of this trial, when it states this principle thus:—"To compass
" or imagine the death of the King, such imagination
" or purpose of the mind, visible only to its great
" Author, being manifested by some open act, an
" institution obviously directed not only to the security
" of his natural person, but to the stability of the
" government, the life of the Prince being so inter-
" woven with the constitution of the state, that an
" attempt to destroy the one is justly held to be a
" rebellious conspiracy against the other."

Gentlemen, it will be my duty to state to you presently what is in law an attempt against the life of the King. It seems, therefore, that when the ancient law of England (and I would beg your attention to what I am now stating to you), that when the ancient law of England was changed, which, even in the case of a subject, held the intent to kill homicide, as well as, in the case of the King, the intent to kill or depose,

without the fact, where a measure was taken to effectuate the intent, treason, with a difference however as to the nature of the acts deemed sufficient, in the one case, or in the other, to manifest the one or the other intent, that, to use the words of a great and venerable authority, I mean Mr. Justice Foster, “ it “ was with great propriety that the statute of treason “ retained the rigour of the law in its full extent in “ the case of the King. In the case of him,” says he, “ whose life must not be endangered, because it cannot “ be taken away by treasonable practices, without in- “ volving a nation in blood and confusion : levelled “ at him, the stroke is levelled at the public tran- “ quillity.”

Gentlemen, that it may be fully understood what it is that I have to contend for in the course of this trial, I put you in mind again that I have before stated, that, as it is absolutely necessary to the security of individuals, not less necessary to the security of individuals, than it is necessary to the security of the nation which they compose, that the person and government of the King should be thus defended ; on the other hand, for the security of the subject, it is equally necessary that the crime of high treason should not be indeterminate, that it should not be unascertained, or undefined, either in the law itself, or in the construction to be made of that law.

Gentlemen, this necessity is not to be collected merely in this country from reasoning, though it may obviously enough be collected from reasoning ; the experience of your ancestors has informed you, I admit

it, and I beg to press it upon your attention, as much as any man in this Court can press it upon your attention, the experience of your ancestors has informed you, in the just and bitter complaints which are to be found in their annals, of the periods, in which no man knew how he ought to behave himself, to do, speak, or say, for doubt of pains of treason,—in the anxiety with which the statute of Edward III. reserved the judgment of all treasons not there expressly specified—“that the justices should tarry without going “to judgment of the treason, till the cause be shewed “and declared before the King and his Parliament;”—in the expressive language, which our ancestors have used, when the provisions of the statute of Edward were first introduced into the code of law under which we live, and of those statutes, by which treasons were brought back to the provisions of that statute, the experience of your ancestors, thus handed down to you, has demonstrated this necessity. I admit too (and my treating the subject thus in the outset may ultimately save your time), that before the statute was made, upon which the Indictment proceeds, the security of the subject was not sufficiently provided for. I admit that the security is not sufficiently provided for now, if construction can be allowed to give an exposition to the statute, which the Legislature did not intend it should receive.

Gentlemen, upon each of these heads it was necessary for me to trouble you with some, and but with a few observations.

That the law of treason should be determinate and

certain, though clearly necessary for the security of the subject, is not more necessary for their security, than that there should be a law of treason, and that this law should be faithfully, duly, and firmly executed.

Gentlemen, every state must have some form or regimen of government; in other words, it must determine by whom, and under what modifications, the sovereign power is to be exercised in the country; for no government can exist, unless this power is placed somewhere: and the attempt to subvert that power is, in the nature of the thing, an attempt to subvert the established government. It is of necessity that an attempt of this sort should be guarded against, by severer penalties than offences, which being breaches of particular laws, do not endanger the very existence of the state itself, which do not involve, in the destruction of the state, the destruction of all laws, but which leave the law, though violated in particular cases, sufficient, in general cases, for the protection of the personal security, the liberty and happiness of the subject.

Gentlemen, this is also the reasoning of that great Judge, whose name I before mentioned to you, my Lord Hale:—"The greatness of the offence," he says, "and the severity of the punishment is upon these reasons:—First, because the safety, peace, and tranquillity of the kingdom is highly concerned in the safety and preservation of the person, dignity, and government of the King, and therefore the laws of the kingdom have given all possible security to the

“ King’s person and government, and under the severest penalties.”

Gentlemen, to describe this great offence with precision and accuracy, was what the Legislature in Edward’s time proposed, when they enacted the sacred statute upon which this Indictment is founded ; that statute was made for the more precise definition of this crime, which, by the common law, had not been sufficiently extended, and “ the plain unextended letter of it,” you will mark the words, “ the plain unextended letter of it was thought to be a sufficient protection to the power and honour of the Sovereign ;” but not only to the person and honour of the Sovereign, but “ *an adequate security to the laws committed to his execution.*”

Gentlemen, in addressing a Jury in a court of law, sworn to make deliverance according to that law which constitutes the court in which they sit, there are two propositions which appear to me to be alike clear :—the first is, that I ought not, that I cannot dare to call upon you to say, that there has been committed under this statute any offence, if the facts of the case to be laid before you, by plain, manifest, authorized interpretation of the statute, do not constitute an offence under it—if the statute should seem to any man, or to you, not to be a sufficient and adequate security to the person and honour of the Sovereign, and the due execution of the laws, it is nevertheless all the security which the law has authorized you to give them, and God forbid that you should think of giving more. On the other hand, you are bound by your oaths, if this law has been violated in fact, if the fact of violation

is proved by evidence, convincing in its nature, and such in its form, as the law requires (for the law in this case requires not only convincing, but formal evidence), then you are bound to give to the person and honour of the Sovereign, and to the laws of your country, that protection, which a verdict, asserting in substance that the statute has been violated, would give, and which the statute intended should be given.

Gentlemen, men of honour and of conscience, acting under the sanction of the oath they have taken, must come to the same conclusion, judging of the same facts, by the same law, whatever their principles of government may be, unless they differ upon the effect of facts laid before them. In the trial of a person, whose name I shall have abundant reason to mention to you in the course of this proceeding, I mean the author of the Rights of Man, charged with a libel against the monarchy of the country, it was judiciously, truly, justly, and strongly admitted in effect, that, if the Jury had been composed (if there are twelve such men in this country) of republicans, wishing to overturn the government of the country, yet administering the law of England, in a court of English law, if they were convinced that the crime had, alluding to that law, been committed, no man would have the audacity to say they could be capable of that crime against the public, to think for a moment of not coming to the conclusion, which the facts called for, according to the law by which they were sworn to decide upon the matter before them.

Gentlemen, the statute upon which this Indictment

proceeds, is to the following effect—it states (and it states most truly), “ That divers opinions had been
“ had before this time,” that is, the 25th Edward III.
“ in what case treason should be said, and in what not ;
“ the King, at the request of the Lords and of the
“ Commons, hath made a declaration in the manner
“ as hereafter followeth, that is to say, when a man
“ doth compass or imagine the death of our Lord the
“ King, or of our Lady his Queen, or of their eldest
“ son and heir ; or if a man do violate the King’s
“ companion, or the King’s eldest daughter, unmarried,
“ or the wife of the King’s eldest son and heir ; or if
“ a man do levy war against our Lord the King in his
“ realm, or be adherent to the King’s enemies in his
“ realm, giving to them aid and comfort in the realm
“ or elsewhere, and thereof be provably attainted”—
by which words I understand be attainted by evidence,
that clearly and forcibly satisfies the minds and consciences of those who are to try the fact—“ attainted
“ of open deed by people of their condition”—then
there is this, to which you will be bound to give your
attention for the sake of the Prisoner, as well as for the
sake of the public, the interests of both being blended
in this great cause ;—“ and because that many other
“ like cases of treason may happen in time to come,
“ which a man cannot think nor declare at this present
“ time, it is accorded that, if any other case, supposed
“ treason, which is not above specified, doth happen
“ before any justices, the justices shall tarry without
“ any going to judgment of the treason till the cause
“ be showed and declared before the King and his

“Parliament, whether it ought to be judged treason, or other felony.”

Gentlemen, I desire to point out here, in the most marked way in which I can state it, the anxiety, with which the Parliament wished to preserve to itself the judgments of treasons, not being the specified treasons in the statute, but being like treasons, those which, by a parity of reasoning, might be said to be treason. They would not trust the subjects of the country in the hand of any court of justice upon that point. I mark the circumstance, because it appears to me to give a degree of authority to the law of England upon the subject of treason, and to the constructions, which have been made upon it, and to the distinctions which have been made between like treasons, and overt acts of the same treason, that perhaps does not belong to constructions and distinctions adopted in the course of judicial proceedings upon any other law in the statute-book.

Gentlemen, having read the statute to you, it is not unimportant, as it seems to me, to observe that Lord Hale and Mr. Justice Foster, who have stated the judicial and other expositions of this statute, have stated them, and have expounded the statute, under the weighty caution, which they most powerfully express: under the solemn protests, which they most strongly state, against extending this statute by a parity of reason. This circumstance alone appears to me to give infinite authenticity to the expositions, which they state of it, as sound, and as being such as, according to the interpretation, which the legislature

in Edward the Third's time meant, should be put upon this statute.

Gentlemen, I think it may also save your time, and that of the Court, if I trouble you here by reading, before I state to you the expositions of the statute which Lord Hale has given us, deducing them from judgments which had been actually made in the history of the country, the language which he holds, as describing the obligations, which courts of justice, and men looking at this statute for the purpose of executing it, are under, to construe it according to the real specified meaning, not by a parity of construction as to the reason itself, when they came to construe it.

Lord Hale states it thus—"Although the crime of
 " high treason is the greatest crime against faith, duty,
 " and human society, and brings with it the greatest
 " and most fatal dangers to the government, peace,
 " and happiness of a kingdom or state, and therefore is
 " deservedly branded with the highest ignominy, and
 " subjected to the greatest penalties that the law can
 " inflict, yet by those instances"—he is stating those
 that had occurred before the statute of Edward III.
 and between that and the first of Henry IV.—"yet
 " by those instances, and more of this kind that might
 " be given, it appears—first, how necessary it was that
 " there should be some fixed and settled boundary for
 " this great crime of treason, and of what great im-
 " portance the statute of the 25th of Edward III. was
 " in order to that end; secondly, how dangerous it is
 " to depart from the letter of that statute, and to
 " multiply and enhance crimes into treason by ambi-

“guous and general words—as accroaching of royal
 “power, subverting of fundamental laws, and the like;
 “and thirdly, how dangerous it is by construction and
 “analogy to make treasons, where the letter of the
 “law has not done it, for such a method admits of no
 “limits or bounds, but runs as far as the wit and
 “invention of accusers, and the odiousness and detes-
 “tation of persons accused, will carry men.”

In another passage, after having given his comment upon this statute—after having stated what are the overt acts, which fall within the letter of it, and the sound interpretation of it, he says, “It has been the
 “great wisdom and care of the Parliament to keep
 “Judges within the bounds and express limits of this
 “act, and not to suffer them to run out upon their own
 “opinions into constructive treasons, though in cases
 “that seem to have a parity of reason (*like cases of*
 “*treason*), but reserves them to the decision of Parlia-
 “ment. This is a great security as well as direction
 “to Judges, and a great safeguard even to this sacred
 “act itself; and therefore, as before I observed, in the
 “chapter of levying of war, this clause of the statute
 “leaves a weighty memento for Judges to be careful
 “that they be not over-hasty in letting in constructive
 “or interpretative treasons, not within the letter of
 “the law, at least in such new cases as have not been
 “formerly expressly resolved, and settled by more
 “than one precedent.”

Gentlemen of the Jury, I am persuaded, as those were persuaded who conducted the defence of Lord George Gordon, that we live in days, in which the

Judges of the country neither have the inclination nor the courage to stretch the law beyond its limits. I think myself bound to state that; and those, who dare to state the contrary in any place, do not do the justice to the country, which is due from every individual in it.

Gentlemen, having stated thus much to you, I now state, in order to be perfectly understood, that I do most distinctly disavow making any charge of *constructive treason*; that I do most distinctly disavow stating in this Indictment *any like case of treason* not specified in the statute; that I do most distinctly disavow stating any thing that can be called *cumulative treason*, or *analogous treason*; that I do most distinctly disavow *enhancing any thing, by a parity of reason, into treason, which is not specified in that statute*; that I do most distinctly disavow *enhancing crimes of any kind, or a life spent in crimes*, if you choose so to put it, into treason, if it be not treason *specified in the statute*; and the question between us I state distinctly to be this—Whether the Defendant is guilty of a treason *specified in the statute*, and whether the evidence that is to be brought before you amounts to that proof, that will be satisfactory to your minds and consciences, your minds and consciences being prepared to admit no proof, but what you think you ought to receive under the obligation of an oath, proof high enough that he may be provably attainted of open deed, of a treason specified in the statute.

Then, Gentlemen, to state the charge to you:—The Indictment charges the Defendant with compassing and imagining the King's death, and with having

taken measures to effectuate that purpose.—Now, that it may be thoroughly understood, you will permit me to state to you here, that there is not only a manifest distinction in reason, but a settled distinction in the course of judicial practice, settled for no other cause but that it was a manifest distinction in reason, between —“like cases of treason,” constructive, analogous, or cumulative treasons, and various overt acts of the same treason.

Gentlemen, whether the acts laid as overt acts of treasons, specified in the statute, and specified in the Indictment, amount, in all their circumstances, to an open deed, or deeds, by which a person may be provably attainted of the specified treason, is the question which a Jury are to try. To explain myself upon this, I take it to be clear, and I will not, in this stage of the business at least, enter into the discussion of what I call the clear and established law of England, because I will not, in a case of high treason, any more than I would in a dispute about the estate of any gentleman who hears me, for the purpose of arguing points, enter into discussions upon what I take to be the clear and established law of England; and not only the security of the subject in this respect, but the security of the subject in no respect, in his person, his life, or his property, can be taken to exist in this country, if I am not as fully authorized to state to you, with as much confidence, what the law is, in case of treason, from the decisions, which for centuries have been made in courts respecting it, as I am to state to you, from decisions of courts respecting property, what

the law of property is; I say I take it to be clear that deposing the King, entering into measures for deposing the King, conspiring with foreigners and others to invade the kingdom, going to a foreign country to procure the invasion of the kingdom, or proposing to go there to that end, and taking any step in order thereto—conspiring to raise an insurrection, either to dethrone the King, imprison the King, or oblige him to alter his measures of government, or to compel him to remove evil counsellors from him, are, and have all been held, as Mr. Justice Foster says, to be deeds proving an intent to do that treason, which is mentioned in the statute to be overt acts of treason in compassing the King's death.

It would be very extraordinary if these great Judges, Foster and Hale, after holding the language they have stated, were to be represented by any man, as not acting themselves under the effect and influence of that weighty memento, which they held out to those, who were to succeed them in the seat of judgment; yet I state all this to you in the words, in which these learned Judges have handed down the exposition of the statute, who would have suffered death, for they both valued the liberties of their country, before they would have charged "a like case of treason" in an Indictment; and yet they have concurred (as all the Judges of England have done, and the Parliament into the bargain) in the construction and exposition of the statute (and in fact executions have been made upon it), that all these things are overt acts of the same treason, that is specified in the statute. What is the

reason of it? because the law holds that he, who does an act, meaning to do it, which may endanger the King's life, compasses and imagines the death of the King, if he does an act which may endanger his life, if, in the ordinary course of things, and according to the common experience of mankind, the measure which he takes, in pursuance of a purpose to take it, will bring the King to his grave.

This therefore is not raising constructive treason, it is not raising treason by analogy, it is not stating "like cases of treason" not specified in, but reserved by the statute to the judgment of Parliament, but it is stating overt acts, which are measures taken in pursuance of treasonable purposes, which measures must necessarily be as various in their kinds, as the ways and means, by which, in facts and open deeds, taken in pursuance of its purposes, the human heart manifests its intent to commit some one or other of the treasons specified in the statute.

Gentlemen, the reserving clause of the act is extremely material; and, if courts and juries have done wrong in the manner in which they have executed this statute, if the interpretations, which they have made of the statute, are not right, they have done it against a prohibition in the statute, which they were called upon by their oaths duly to expound, and they have done it in the presence and under the eye of that Parliament, which had expressly forbidden them to do it. I say the conclusion upon that is, that they have done it rightly.

Gentlemen, the judgments of the courts of law are

in this country perfectly familiar to Parliament. Acts have been made, over and over again, in order to bring back the expositions of the law to the true construction, to the letter which is the true construction, in a sound judicial sense, to bring it back again to the statute of Edward III.; but we have lived to this hour without Parliament thinking that they were to make so perfectly a dead letter of the letter of the statute, as that they should say that an overt act, which expressed and imported the imagination of the mind to do the treason specified, should not be taken to be an act of high treason within the statute; because the statute only mentions the thing which is to be compassed and imagined, and does not mention the ways and means, by which the human heart may show and manifest that it does compass and imagine what the statute speaks of.

Gentlemen, this is not all, because this is not only according to the law of England, as it is administered in courts of justice, but also to the proceedings in Parliament, which are a parliamentary exposition, if I may so state it, of the law. Proceedings in Parliament have been had, where the statute has been thus construed, and where this distinction that I am stating, between overt acts of the specified treason and the “like cases of treason,” has been expressly taken, expressly acted upon, proposed by one House of Legislature to the other House, and acted upon by the Crown in executing the sentences of that House.

Gentlemen, the distinction then is only this—“a like case of treason” is a case of treason not speci-

fied in the statute, a case of the like mischief, as a case specified in the statute ; but the identical case specified in the statute must be before you, or, to avoid all dispute upon the subject, I say, if it is a case that is not specified in the statute, it is a case that must be shown to Parliament according to the directions of the statute ; but that facts alike in their nature, that open deeds alike in their nature and tendency, however various in their circumstances, may prove the same intention to exist in the minds of those who do them, and may be measures, taken in pursuance of the same purpose, and to effectuate the same thing, is a distinction that appears to my mind to be perfectly obvious.

Gentlemen, I conceive, therefore, that the question of compassing the King's death is this—whether the Jury are fully satisfied, conscientiously satisfied, that they have that evidence, by which they find that the acts, laid as overt acts of compassing the particular specified treason mentioned in the Indictment, were measures taken in pursuance of and to effectuate that treason, specified at once in the statute and in the Indictment.

Gentlemen, I protest for myself I am sorry to trouble you thus much at large by general reasoning, but you will find that it has an application, and a close application to the case. This is an important public cause, and therefore we should be thoroughly understood. I cannot understand what constructive overt acts mean, though I do understand constructive treasons. Levying war against the King, not against his person, but against his royal majesty, is constructive treason ; that is, if men assemble together without any intent to do

an act, which in the natural consequence of things will affect the King's life, such as pulling down all prisons or houses of any other description, that is constructive treason, it being, by construction, as Mr. Justice Foster says, against the King's royal majesty, not levied against his person; not one of the acts of a more flagitious kind, wilfully done or attempted to be done, by which the King's life may be in danger, but which are levelled against his royal majesty; these have by construction been held to be treason: but even these the Legislature has never considered as not authorized by the letter of the statute; these they have permitted to be proceeded upon in the country as sound decisions and constructions upon the act of Parliament: many have been convicted upon them; execution hath followed, and no one hath ever doubted either the law or the justice of these determinations. But, as to the constructive overt acts of compassing and imagining the death of the King, where the Indictment lays the imagining and compassing as the offence, the overt act is not constructive, the step taken to effectuate it must be such an act, wilfully and deliberately done, as must satisfy the conscience of a Jury, that there was an intention by deposing, or otherwise, to put the King in circumstances, in which, according to the ordinary experience of mankind, his life would be in danger.

Gentlemen, I have before stated to you for another purpose, various acts, which are overt acts of compassing the King's death. I will repeat them shortly: "Deposing him,—entering into measures to depose him,—conspiring to imprison him,"—which you observe is an act that may be done without an actual

intent to put him to death,—a man may conspire to imprison the King without an actual intent to put him to death, but you will find the reason why that is held to be compassing and imagining the death of the King, with the sanction of all times since the statute of Edward III. and with the sanction of every species of judicial authority, which the country could give; “to get his person into the power of conspirators”—Why is all this treason? “Because,” says Mr. Justice Foster, “the care, which the law hath taken for the personal safety of the King, is not confined to actions or attempts of a flagitious kind, such as attempts either to assassinate, or to poison, or other attempts, directly and immediately aiming at his life; it is extended to every thing, wilfully and deliberately done, or attempted, whereby his life may be endangered; and therefore the entering into measures for deposing, or imprisoning him, or to get his person into the power of the conspirators, these offences are overt acts of treason within this branch of this statute; for experience hath shown that between the prisons and the graves of kings the distance is very small,” and experience has not grown weaker upon this subject in modern times: offences, which are not so personal as those already mentioned, have been, with great propriety, brought within the same rule, as having a tendency, though not so immediate, to the same fatal end.

Lord Hale, upon this, says, “Though the conspiracy be not immediately, and directly, and expressly the death of the King, but the conspiracy is of something

“ that in all probability must induce it, and the overt
 “ act is of such a thing as must induce it, this is an
 “ overt act to prove the compassing the King’s death.”
 The instance he gives, as expository of his text, is
 this: “ If men conspire to imprison the King by force
 “ and a strong hand till he hath yielded to certain
 “ demands, and for that purpose gather company or
 “ write letters, this is an overt act to prove the com-
 “ passing of the King’s death.” What is the reason?
 he gives the same in substance, though different in the
 terms of it, as that which has been assigned by Mr.
 Justice Foster: “ for it is in effect to despoil him of
 “ his kingly government.” These are the words of
 Lord Hale; and, though the reasons given by Lord
 Hale and Mr. Justice Foster are different in words,
 they are the same in substance. It may be said, with
 equal truth, between despoiling a king of his kingly
 government and the graves of kings the distance is
 very small. Imprisonment is the same as deposition,
 and he who compasses the deposition of the King, ac-
 cording to all judicial construction, compasses his
 death; it is the same as deposition, because it is a
 temporary despoiling him of his kingly government,
 which, according to this interpretation of the law,
 usually ends in death.

Gentlemen, offences not so personal as those enu-
 merated fall within the same rule, as having a ten-
 dency to the same fatal end: if foreigners are not at
 war with you, the offence of going into a foreign coun-
 try, or proposing to go there, or taking any step thereto
 in order to invite foreigners into this kingdom for a

treasonable purpose, can only fall within that branch of treason of compassing the King's death: if they are at war with you, then the same act amounts to another species of treason, which is "an adhering to the King's enemies;" and perhaps you will find that the case I have to state is not without pregnant evidence of this species of overt act.

Gentlemen, having stated thus much to you I proceed now to consider the Indictment; and what I have stated, before I mentioned the substance of the Indictment, I have stated to lay in my claim to full credit with you, when I say, that no man living can wish to express to you more strongly than I wish to do (we have indeed, each of us, as great an interest in the true construction of this law, as any other man can have in it), that the law of treason, in considering the charge, that I have brought before you under the command that has authorized me to bring it here, must not be extended one single iota beyond what is the established law in this country, as established as the law is, that says that the property, that you bought yesterday, you may give to whom you please to-morrow.

Gentlemen, the Indictment, finding several persons entitled to be tried separately, though indicted jointly, combined in a particular act, which I will state by and by, has charged them with compassing the King's death: it has then proceeded, because the compassing and imagining of the heart cannot be known to man—and there must be an overt act to manifest it—it has charged them with meeting among themselves to cause and procure a convention of divers subjects of the

King, to be held within this kingdom, and not only a convention to be held within the kingdom, but to be held *with intent and in order that the persons to be assembled to such convention and meeting should and might, wickedly and traitorously, without and in defiance of the authority, and against the will of the Parliament of this kingdom, subvert and alter the legislature, rule, and government established in it, and depose the King from the royal state, title, power, and government thereof.*

It then charges them with having composed, written, and published, and caused to be composed, written, and published, divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings, such books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses and writings, so respectively composed, written, published, and caused to be composed, written, and published, purporting and containing therein (among other things) incitements, encouragements, and exhortations, to move, induce, and persuade the subjects of the King to choose, depute, and send persons as delegates, to compose, not a convention, but *such a convention and meeting, that is, a convention to act in the manner that the first overt act has stated it, to be holden for the traitorous purposes before mentioned.*

It then states, as a third overt act, consultations among them, how, when, and where, *such* convention and meeting should be assembled and held, and by what means the subjects of the King might be induced and moved to send persons as delegates to constitute it.

It then charges, that these persons did consent and agree, that Mr. Joyce and several other persons named, should meet, confer, and co-operate among themselves, and with other traitors, to cause the calling and assembling *such* convention and meeting for *such traitorous purposes*.

It then charges the providing of arms, of different descriptions, for these purposes ; and then it charges a conspiracy to make war in the kingdom, and it charges a conspiracy to subvert and alter the legislature and government of the kingdom, and to depose the King ; that is, as I understand it, that, if you should not be satisfied that the calling such a convention, as is mentioned in the first part of the Indictment, was a mean to effectuate that compassing and imagination, which is mentioned in the introductory part of the Indictment, yet you will find in the evidence, which is to be laid before you, even if you pay no attention to that circumstance of calling a convention, sufficient evidence *of a conspiracy to depose the King*.

It then states again, that they published several books, and other matters of the same kind, in order to bring about the traitorous purposes *last mentioned* ; and charges, as a further overt act, providing arms for that purpose.

Now Gentlemen, having before stated to you, that a conspiracy to depose the King, and I have not stated it to you in my own words, but in the words of the authorities I mentioned, that a conspiracy to depose the King, that a conspiracy to imprison the King, a conspiracy to procure an invasion, with steps taken to

effectuate such a conspiracy (a conspiracy indeed itself being a step for that purpose), is treason, you will observe that, in this Indictment, a conspiracy to depose the King is expressly charged, and, I think, it will be clearly proved. If a conspiracy to depose the King be an overt act of high treason, permit me then to ask you, what can a conspiracy to subvert the monarchy of the country, including in it the deposition of the King, be, but an overt act of high treason? In the object of such a conspiracy the King is necessarily involved, and it is already shown that conspiring to depose him is compassing his death.

Gentlemen, read as you are in the history of the country, give me leave to ask you, if measures had been taken, after the Revolution, to effectuate a conspiracy to dethrone King William, and to restore King James, without all doubt, the measure taken, would have constituted the crime of high treason within the clause of compassing the King's death, although the conspirators could have been shown satisfactorily to have no more meant the actual natural death of King William, than they meant the actual natural death of King James, whom they intended to replace on the throne—but what says the law to that?—the law says you cannot mean to depose the King without meaning to endanger his life, you must abide the consequences of it.

Put it another way—If the project had been to depose the same King William, and measures had been taken upon it—not with a view to bring back to the throne King James II. but merely to send back King William to his former character of Prince of Orange,

and not to restore King James, but to restore a commonwealth, which is, what I think, I shall satisfy you, those, who are charged by this Indictment, meant by “a full and fair representation of the people,” whether you call it “a full and fair representation of the people in *Parliament*,” or do not use the words “in *Parliament*,” can a lawyer be found to say, that it could be stated in law, that it is not high treason? I don’t know what may not be stated – all that I mean to say at present is, that according to the best lights which I can get of the law under which I have lived,—it does not appear to me to be probable, that any man will so state it. Far be it from me, however, to have the vanity to say that (avowing that I should certainly not think of encountering the current authorities of the country for centuries) I am, without the possibility of contradiction, stating that I am following the authorities of the country for centuries; but I am ready to say this, that I cannot conceive or imagine by what species of reasoning, or upon what principle, or upon what authority, it is to be contended, that this would not have been high treason.

Gentlemen, take it another way—If the regicides of King Charles I. had been tried for compassing the death of King Charles I. supposing they had only deposed him, instead of putting him to death, could they have contended, that, though they would have been guilty of high treason, if they had placed another individual upon the throne (which would have been alike to the case I have put, of conspiring to put James in the place of William), could they have contended

then, that they were not guilty of high treason, because they deposed the King, without substituting another King in his place, and because they left the government to be filled up by the commonwealth, without a king?

Give me leave to ask another thing—Suppose it had happened after King William came to the throne, that not those events, that did actually happen, took place, but that any set of men in this country should have ventured to meet in a convention of delegates from affiliated societies, for the purpose of deposing King William, under pretence of assembling a convention of the people, having, or claiming the civil and political authority of the country, and intending to have no king in the country, would it have been possible in King William's time to have contended, because they met, under pretence of being a convention of the people, assuming to themselves civil and political authority, and with such meaning, that the conspiracy was not as completely a compassing the death of King William, as if the conspiracy had been, by the same persons, in the case of affiliated societies, forming the like convention of delegates, to bring King James again to the throne?

If I levy war in this country against the King, with intent to bring another upon the throne, I am guilty of high treason. If I levy war, that is an overt act of compassing the King's death. If I conspire to levy direct war, that is a compassing of the King's death, unless all the branches of the legislature have put a man to death upon an error. If I hold a fortress against the King to put another upon his throne, I am

guilty of high treason. Am I guilty of no offence if I do the same acts, not for the purpose of continuing the monarchy of the country in another person, but for the purpose of destroying the monarchy altogether? What is this but doing an act involving in it high treason, and more? High treason in deposing the King! more—in bringing about all that additional anarchy, which we know, which the experience of mankind proves to be consequent upon the change, where the change is not only of the persons who administer the government, but of the government itself, if *destruction* can be called a *change*?

Gentlemen, to assert therefore that measures, taken for a total subversion of the monarchy of the country, including in it an intention to depose the King (mark the words I state, including in it an intention to depose the King), are not overt acts of compassing the King's death, merely because the statute of Edward III. has not included all overt acts in words, but has left to Juries to determine what are overt acts, by which they can proveably attain—*to assert that the statute does not include the case, because it is compassing the death of the King, and more*; if this were to be asserted in a court of justice (what is asserted out of a court of justice no man pays much attention to), I should certainly say of it, that it was the assertion of those who had ill considered the law; and if asserted out of a court of justice and with a reference to what is to be done in a court of justice, I should say it deserved to have an observation of a harsher kind made upon it.

This Indictment, besides charging a conspiracy to

depose the King, in express terms, of which I shall insist before you there is abundant evidence, charges a conspiracy to call a convention *against the will, in defiance of, and against the authority of Parliament,* for the *purpose of deposing the King* ; it charges further acts, namely, that they caused to be composed and written divers books, pamphlets, letters, instructions, resolutions, orders, declarations, addresses, and writings, containing incitements, inducements, and exhortations, to move, seduce, and persuade the subjects of the King to send delegates to *such convention* ; as to which I say of many of them, though I did not know their real character till I had seen them all together, that they are both overt acts, and evidence of overt acts of high treason.

Now, before I state to you the particulars of the evidence, I am afraid I must, however painful it is to me to ask so great a portion of your attention, trouble you with some general observations, that I think will have a tendency to render intelligible to you the complicated mass of evidence, which I have to lay before you.

Gentlemen, the convention, meant to be called by those who are charged with the conspiracy in this Indictment, was, as I collect from the effect of the evidence, a convention of persons, who were to assume the character of a convention of the people, claiming, as such, all civil and political authority, proposing to exercise it by altering the government, otherwise than by acts of the present constituted Legislature, otherwise than by those statutes, according to which the King has sworn at the hazard of his life to govern.

Gentlemen, if this is made out, it appears to me to follow necessarily on the part of all who took a step to assemble it, that they are guilty of a conspiracy to depose the King, to depose him from the character, which he holds in the constitution of the sovereign power of this kingdom, as by law established, that law by which, I again repeat to you, he is sworn to govern.

Gentlemen, if they conspired to assemble in a convention, which was of its own authority, and against the will of the Legislature, and in defiance of it, to act as an assembly to constitute a government, and to assume so far sovereign power, it is, I conceive, according to the law of England, a conspiracy to depose from the sovereignty him, who, under the restraints of the constitution and the law, now holds the sovereignty. There cannot be two sovereign powers in a state; there may be a complication of authorities vested in a great variety of persons, making up one sovereign power, but there cannot be two sovereign powers in a state: it is impossible. If a meeting assembled, as a convention of the people, arrogating to themselves all civil and political authorities as such, and meaning to exercise it, one or other of these consequences must follow: the King and Parliament must be obedient to the meeting, or the meeting, assembled as a convention, must be obedient to the King and Parliament: if the meeting is to be obedient to the King and Parliament, it cannot effect its purposes; it is impossible: if its purpose be to depose the King, I say, a conspiracy to call such a meeting is an overt act of high treason.

Gentlemen, I beg your attention to my expressions : if the meeting means to oblige the King and Parliament to be obedient to them by the exertion of open force, though it may not effect its purpose, that makes no difference, the law must be the same—I may be wrong perhaps in stating the law, but it appears to me that the law must be the same if the meeting projects the purpose, whether the force of the meeting is sufficient to effect the purpose or not.

This, I say, is a conspiracy to assume the sovereign power : it is a conspiracy therefore of necessity meant to depose the existing power, and of necessity to depose the King. I say meant to depose ; for I repeat it, that whether the conspiracy is successful or not, is immaterial.

Gentlemen, though the particular fact of calling such a convention, now alleged as an overt act of treason, may be represented to be new in the history of this country, it is not therefore, and because it is new, only inasmuch as it is more than ordinarily audacious, less an overt act of compassing the death or deposition of the King, if the intent of it was to subvert the sovereign ruling power.

Gentlemen, there is another distinction, which I would beg your attention to. It is of no consequence whether the first meeting, proposed to be assembled, *was designed to be a convention, that should assume all civil and political authority, or was only to devise the means of forming a constituent assembly, a body which should assume it ;* for any act taken towards assuming it against the will, in defiance of, and against

the authority of the King and Parliament, and removing him from that situation in the character of sovereign, which he has in this country ; any act taken towards the formation of a body, which was to assume such authority, is an act of conspiring the deposition of the King ; any act towards convening a national assembly to act with sovereign power, not formed by the Legislature, is an act done towards the deposing the King, who now has, under the restraints of the constitution, and the provisions and limitations of the law, the sovereign power vested in him. You cannot set about organizing a body, which is thus to act, without meaning to depose the King, without meaning to form a body that is to usurp the powers of government.

Gentlemen, I think the evidence, that I shall lay before you, will most abundantly satisfy you that the convention, which the persons charged conspired to form, was a convention to alter the whole form of the sovereign power of this country, that it was to form, or to devise the means of forming *a representative government*—to vest in a body, founded upon universal suffrage and the alleged unalienable, and, as they are called, imprescriptible rights of man, *all the legislative and executive government of the country* ; that a conspiracy to this end would be an overt act of high treason, I presume cannot be disputed ; it deposes the King in the destruction of the regal office in the constitution of the state.

Gentlemen, I go further : if it had been intended to have retained the name and office of the King in

the country, and to have retained it in the person of the present King, creating, however, by the authority of the intended convention, a new legislature, to act with him, provided they would allow him to act with such new legislature, and thus calling upon him to act against the express obligations of his coronation oath, if he could forget it, it still would have been a conspiracy to depose him from his royal authority, as now established: if he refused to act, he must necessarily be deposed from that authority; if he did accept, he was not the King of England, as he is established by law the King of England. But he could not accept; he could not so govern; he is sworn not so to govern; he must refuse, must resist, and, in consequence of resisting, his life must be in danger.

Take it either way, that persons conspired to form a convention to assume all civil and political authority, as pretending to be a convention of the people (I care not with how much audacity they pretend to be a convention of the people), or to devise the means of constituting such a convention, in order, and with the intent, and against the authority of Parliament, that there should be no King, or in order to the erecting, by their own authority, a new legislature to act together with a King, and together with *the* King, if they permitted *the present* to be *the King*, I submit that such a conspiracy is an overt act in the true construction of law, and high treason in compassing the King's death. The King must be deposed while such a new constitution was framing; he could not treat with such a convention till he had been deposed; it could be

those only, that had sovereign authority, that could frame a constitution: then he is surely, by this, despoiled of his kingly government, even as in a case of temporary imprisonment. I repeat again, that he could not, consistently with his coronation oath, do otherwise than reject it when framed: it must be taken for granted he would reject it; his life, therefore, could not but be in danger. To suppose that such a meeting, which proposed a new constitution, would depart quietly home, and not act, if it was not accepted, is out of the reach of all human credulity; it is not according to the ordinary course and experience of mankind, to suppose that they should meet in numbers, and make no use of their numbers, if the show of them did not produce the effect intended: this is not according to the ordinary course and experience of mankind.

Gentlemen, the King in his Parliament could not be the sovereign power the moment the meeting could act as a national constituting assembly, or could direct, with effect, such an assembly to meet. The power so to act, or to organize with effect such a meeting, that should so act, must *pro tempore* depose every other power. This is the character of a convention of the people, I think, as given in the evidence I have to lay before you. With respect to the Defendant, I think I shall satisfy you he conspired to call such a convention; and that he said that The convention, which I am to call, is irresistible, it is unlimited, it is uncontrollable, and that by such a convention, my *full and fair representation of the people*, or *a full and fair representation*

in Parliament (if you choose to take that expression, for it is not mere expression that determines what men mean), is to be accomplished.

Gentlemen, in the country in which I am speaking, when a vacant throne was given (I am now alluding to the time of King William) by those, who, as they are stated in the Bill of Rights, represented all the estates of the people of this realm, to King William and Queen Mary, they, who gave it, ceased to have or to exercise the power of sovereignty: in that instant, as every lawyer must speak of it, in that instant the sovereign power of this country became vested in *the King and Queen* upon the throne, to be exercised in legislation, undoubtedly, with the advice and consent of Parliament, formed according to the law and custom of the country—incapable of being exercised otherwise, and, as to the executive authority, exercised under the control of provisions and limitations of the law and constitution, and with the advice which, in every act which the King does, makes somebody responsible.

I insist that the design of conspiring to assemble the people, who were to act as a convention of the people, claiming all civil and political authority, or claiming power to alter, against its will, the constituted legislature, or a meeting to form the means of bringing together such a convention so to act, is an attempt to create a power subversive of the authority of the King and Parliament, a power, which he is bound by oath to resist at all hazards. But it will not rest here: this will be sufficiently proved; but evidence will likewise be offered to you as satisfactory to prove that the

express object of calling this convention, the express object of appointing a committee of conference and co-operation, which was to devise the means of constituting such a convention, was ultimately, and finally, and in their prospect, *the deposition of the King*.

Gentlemen, beyond this, and supposing it not to be proved, the Indictment has charged as overt acts, a conspiracy, without the mean of a convention, and not through that medium, to depose the King; if that conspiracy is made out by other acts, though neither a convention, assuming all political authority, nor a meeting to devise the means of calling a convention, which should assume all political authority, was intended, yet the Indictment is made good.

Gentlemen, the Indictment further charges as an overt act of compassing the King's death, which without question it is, the conspiracy to levy war; I do not mean constructive war. This I state, without question, to be an overt act of compassing the King's death. A rising to oblige the King to alter his measures of government amounts to levying war within the statute. A conspiracy to levy war for this purpose is an overt act of compassing the King's death. If they conspired to form a *representative government*, excluding the King entirely, which I say is the fact, or, if they conspired not to form a representative government, excluding the King entirely, but yet to compel him, by their own strength and force, to govern with others, and without those, which he chose to remain with him, by whose advice and consent alone he is sworn and bound to govern, I mean the great Coun-

cil of the nation, the Lords in Parliament assembled, the Commons in Parliament assembled, according to the constitution of the country, and to substitute against his will, and against the will of the present constituted authority of the country another authority, formed on the principles of universal suffrage and annual representation, and so formed without the authority of Parliament, I must submit to the Court, and to you, that conspiring to do this would be an overt act of treason of deposing the King, and therefore of compassing his death.

Gentlemen, you will also observe the Indictment has charged, and proof will be offered to you to make it out, that these objects were meant to be carried by force, by actual force.

Gentlemen, the case, as I have hitherto represented it, is not a case aiming merely at intimidating the Legislature, and inducing it by an act done, which was, according to the forms of the constitution, to bury the constitution in its grave, to new-mould the sovereign power; the case goes far beyond this; application in any shape to Parliament was not only disavowed, but the very competency of Parliament, if applied to, to make a law to new-model the government, was disputed, and denied: the idea of that competency was held to be irreconcilable to the very principle upon which these persons assembled. I must however insist, and I mean to do it, with the full concurrence of my humble opinion, that a conspiracy to compel the King, by force, against his will, to give his assent to an act obtained from the Houses of Parliament in order to

alter the government and frame of the constitution of the country, whether it was obtained from the two Houses of Parliament, or either of them, by overawing them, or not overawing them,—that a conspiracy, by force, to compel the King, in the exercise of the highest and most essential act of the sovereignty of this country, in the act of giving his consent to such an act,—to compel him, by force, to do that, is unquestionably an overt act of treason in deposing him, and in compassing his death. It is neither more nor less, to explain it in a word, than to substitute the will of those, who conspired to force him, in the room of that royal will, in which, and by which alone, the laws of this country, and the constitution of this country, have said that a bill (however obtained before it comes to him) shall receive the authority of a statute.

Gentlemen, I have thought it necessary to state thus much before I come to state the circumstances of the case, and I will state to you in a word why. It is not to be expected by persons, who execute the great and important duty in the great and important station, the functions of which you are now called upon to execute, that counsel at the bar shall be able to state to you law, that no man can question the soundness of; nay, Gentlemen, it is not to be expected by you that counsel at the bar should be able to state to you in all cases law, which men of grave character and excellent understandings, of great reason, and great experience in their profession, may not dispute the soundness of. It is the duty of counsel, more particularly it is the duty of that counsel, who ought to remember that, if, in

prosecuting the subject, he presses him unfairly, he betrays in the most essential point the duty which he owes to the sovereign: it is his duty to endeavour faithfully and honestly to explain and expound the law, that is, to apply to the facts of the particular case, reasoning upon the law, according as he is able to do it, in the exercise of painful industry, exerted under the reflection that he is under much obligation at least to endeavour to represent the law truly.

Gentlemen, I have thought it my duty, in a prosecution, the principles of which interest the civil happiness of all mankind, to mention distinctly and fairly what are the principles upon which I proceed: I have no doubt in my own mind, but that I have stated these doctrines as the law of England would state them, and I claim from you and from the public that, in the fair exercise of my duty, conducted under such a sense and understanding of that duty, as I have now explained to you, you and they will do me the credit at least to think, that the principles which I have stated are such as I believe to be sanctioned by the law of England.

Gentlemen, I shall presume for a moment, after having read to you the Indictment, and given you that exposition of it, which I humbly offer to your attention, that the law has (at least, according to my judgment, it certainly has) been complied with in these respects; namely, the Indictment has told you with sufficient certainty what it is, that is meant to be imputed as an overt act of compassing the King's death. It is not necessary to be disputing that now,

because, if I have failed in the due execution of my duty in that respect, the Prisoner cannot be injured by it.

Gentlemen, I have before said to you, that, in a case of high treason, the evidence must not only be convincing, but it must be formal; and, though the object of the security of the person and government of the King is the highest object that the law has looked to, yet I must, at the same time, inform you, that the law for the security of the public, which is in truth part of the object involved in the *object* of the security of the *person* and government of *the* King—is essentially united with it—and inseparable from it: the law has required not only that you shall have one witness, if he were the most credible man in the world, to give convincing evidence of the fact, but that that convincing evidence must be rendered yet more conclusive by the testimony of two witnesses; that you should at least have one witness to one overt act, and another to another overt act of the same species of treason.

Gentlemen, having stated to you the project, in a general way, to which I apprehend this Indictment applies, I presume that you may possibly reason thus: When this Indictment charges, that these persons compassed the death of the King and to depose him,—that they conspired to assemble a convention in defiance of the authority of Parliament,—to subvert the rule and government of the kingdom, against the will and in defiance of the Legislature—to dethrone the Monarch, reigning in the hearts of a great majority of his people, you will naturally ask—by what process was it that

such persons as these could effectuate such a purpose? When the Indictment charges, that they composed a great variety of books, containing incitements to choose persons, as delegates, to compose a convention for such traitorous purposes,—in what language, you will naturally ask, could such incitements to such a momentous project have been conveyed, and to whom could that language have been addressed? When it charges that they met, and deliberated among themselves, together with divers other false traitors,—at what time, in what manner, and in what place, it may be asked, have these people met to deliberate upon that project, for the accomplishment of which so many persons must be engaged?—By what means were they to bring together the subjects of the country, to send delegates to such a traitorous convention, to assume such sovereign power? This sort of question may be pursued. I shall not pursue it by observations upon every overt act in this Indictment.

Now, Gentlemen, my answer to this is a short one. I think it will be proved to your satisfaction, that, as they meant, in the words of the Act of Parliament, to introduce that system of misery and anarchy, which prevailed in France, they meant to introduce it by the same means,—to proceed upon the same principles to the same end,—and by the same acts to execute the same purposes.

Gentlemen, if the experience of Europe had not manifested what has passed in France (and this project might perhaps be brought from France into Great Britain by but an individual or two), if that ex-

perience had not shown us what has passed in France, to the destruction of its old government—to the destruction alike of that government, which they substituted in the room of its old government—and which, in the last act of its power, protested against the existence of clubs, as incompatible with the security of any country, I say, till the subversion of government in France took place, and upon principles, to a blind admiration of which in this country,—a country which, under the peculiar favour of Providence, is alike in its blessings, as it is in its situation, “*toto divisos orbe Britannos*,” but in which we have found a disposition to sacrifice all those blessings—it could not perhaps have entered into the heart of man to conceive, that a project so extensive should have been set on foot by persons in number so few;—that a project, existing almost every where, should yet be visible nowhere;—that a project should be so deeply combined, and complicated,—should exist to such an almost inconceivable extent,—should be formed with so much political craft—it could not have entered into the heart of man to conceive, that it should have existed in any country, much less, that it was possible that it should exist in this country of Great Britain to the extent in which I am sure, whatever your verdict may say upon the guilt of the Prisoner, you will be satisfied it has existed in this country.

But the law of England does not require that any such case, as this, should be proved before you. If you are satisfied that what the Indictment charges was imagined, and that a step was taken to effectuate that

intent, it is enough—it is not the extent, in which the project was proceeded upon—it is not the extent, to which the project was ruinous—it is not necessary to prove, that the means were as competent to the end proposed, as they were thought to be, by those who used them. No, Gentlemen, the providence of the law steps in upon their first motion, whether they furnish themselves with means adequate or inadequate to their purposes—the law steps in then, conceiving its providence at that moment to be necessary for the safety of the King and the security of the subject.

The project, the general character of which I shall give you, proving it by the particular facts, and applying the particular facts (for I have no right to give you the general project, unless I can so apply the particular facts) to the person now accused, seems to me to have been this. Imported from France in the latter end of the year 1791 or 1792, by whom brought hither it does not much matter, the intent was to constitute in London, with affiliated societies in the country, clubs which were to govern this country upon the principles of the French government, the alleged unalienable, imprescriptible rights of man, such, as they are stated to be, inconsistent in the very nature of them, with the being of a King or of Lords in a government—deposing, therefore, the moment they come into execution, in the act of creating a sovereign power, either mediately or immediately, the King, and introducing a republican government with a right of eternal reform, and, therefore, with a prospect of eternal revolution.

Gentlemen, we have all heard of a club called the

Jacobin Club at Paris. This, with its affiliated societies—however impossible it was thought that it should effect such things,—however wild the man would have been thought, into whose head such an imagination could have entered as that it could affect them, first upset the old constitution, then introduced another, which could not exist upon the principles which gave it birth, and has finally introduced government after government till it has at last left the country in that undescrivable state of things, in which we now see it.

Gentlemen, the great end of the persons concerned in this project, though not altogether visible, or not much disclosed upon its first formation, was, when they had sufficiently diffused their principles through this country,—by artifice,—by union,—by combination,—by affiliation,—by fraternization (those who formed the project, whoever they were, endeavouring to force it into execution by means which perhaps would shock the minds of men that are not always dwelling upon political subjects), to assemble a convention of delegates from clubs, to assume the power of the people, supported in the assumption and exercise of that power by the individual members of the affiliated societies, and by their combined strength.

Gentlemen, we have no occasion in this cause to be disputing upon abstract questions, as to the power of the people to change their government. I state to you that the intention was, to assemble a convention of delegates from those clubs, to assume the powers of government. The people, the infinite majority of the

people, adverse to any change, distinguishing between abuses in the administration of the government, and vices in the form of the government administered, nay, ardently attached to the old government, must have been averse to have been subdued by a convention of the delegates from these societies, who meant to have assumed the representation of the people, and to have exercised the powers which they stated to be inherent in those whom they professed to represent.

Gentlemen, it is not difficult to conceive, after what has happened in fact in France, how it should happen that the opinion of these fraternizing societies should have the force of the will of a majority of the nation, though they constituted a vast and infinite minority indeed. You will find, in the evidence to be laid before you, that it was perfectly understood how this might be by those who are named in this Indictment. The great bulk of the community, engaged in different pursuits, are therefore incapable of being combined in opposition to the execution of a purpose, which is to be brought about by great bodies of men, that are combined. I need not give you a stronger instance of it than this. It is within the memory of most of us living, that a few thousand men in St. George's Fields, combined in one purpose, reduced this metropolis to an absolute state of anarchy, a state in which no government existed. If any man had been asked, a fortnight before the event to which I am now alluding, Is it possible for four or five thousand men to assemble in St. George's Fields, and to rob and plunder every body they choose in London

and ten miles round it? That would have been thought utterly impossible—but yet it happened—why? because a combination of the few will subdue the many, who are not combined, and with great facility; and combined bodies of men have had, as you will find, an existence in this country, to an extent which few men had any idea of.

You will find them organized,—prepared for emergencies and exigencies,—relying upon their own strength,—determined to act upon their combined strength, in a system of acting together,—in some instances acting with a secrecy calculated to elude observation—in other instances, proceeding, by directly contrary means, to the same end,—representing their numbers as greater than they were, and therefore increasing their number by the very operation of the influence of the appearance of strength upon the minds of others, without a possibility that that misrepresentation should be set right. You will find them inflaming the ignorant, under pretence of enlightening them; debauching their principles towards their country, under pretence of infusing political knowledge into them;—addressing themselves principally to those whose rights, whose interests are, in the eye of the law and constitution of England, as valuable as those of any men, but whose education does not enable them immediately to distinguish between political truth and the misrepresentations held out to them,—working upon the passions of men, whom Providence hath placed in the lower, but useful and highly respectable situations of life, to irritate them against

all whom its bounty hath blessed by assigning to them situations of rank and property,—representing them as their oppressors, as their enemies, as their plunderers, as those, whom they should not suffer to exist;—and, in order at the same time to shut out the possibility of correcting original error, or rectifying the opinions of those whom they had so inflamed, misinformed, debauched, and misled, not admitting them into these affiliated societies till they had subscribed tests—the principles of which they were not to examine after they had been admitted, but the principles of which they were to carry into execution, when assembled in a convention—to carry into execution those principles, as acting for the people, by a great majority of whom they were held in utter detestation.

Gentlemen, to say that an act done was meant to be done, as a means taken in the execution of such a project as this is, till the person, who takes it, thinks the scheme practicable, I admit is not reasonable, but undoubtedly he may think it practicable long before it is really so. Now, you will be abundantly satisfied, that these conspirators thought that the time was now come—that the time for a convention, which had been the object of anxious expectation, doubting for a year or two whether it would ever be gratified, that that time was *now* come, and the measures taken were taken upon that supposition—that the opportunity had arrived, which, if not laid hold of now, would be lost for ever.

Gentlemen, the people of this country have in general a rooted attachment to its government. The

public opinion of government is in this country, as well as in every other, its principal support : and therefore it became necessary to infuse, where so much could be safely suggested, where the mind was prepared for it, an opinion, that the form of the British government was radically vicious—that it was founded on principles of oppression—that it was founded on the destruction of natural, imprescriptible, and unalienable rights.—With others, you will find, they thought it necessary to use a little more caution—not to alarm them, but to humour their attachment to the form of the constitution, by taking advantage of well-meaning ignorance, under pretence of instructing it, to enlist them also alike in the project of destroying that constitution to which they were attached. To them, therefore, the form of the government was not spoken of in terms which they might understand to be a condemnation of it, though they were really such, but by making use of general expressions, such as obtaining “a full and fair representation of the people in Parliament”—“a full representation of the people,” sometimes without mention of Parliament—never with actual mention of the King and Lords, as co-existing together with Parliament—by using terms, which certainly may mean what it may be contended in the defence they did mean—but terms the same in their expression, certainly the same in their import, as those, which were used in every act which passed in this country during the time of the Commonwealth, when we neither had King nor Lords—that may signify a government existing without Lords or King, by de-

claring the obtaining such a representation of the people as necessary to the natural, unalienable, imprescriptible rights of man, as stated by Mr. Paine; by these means and artifices they attempted to engage in their service the physical strength of men, who might not and did not discover the real nature of the plan, which that strength was to be employed in executing—who had not information enough to discover what the representation was meant finally to do or to execute. But you will find the persons mentioned in this Indictment had no doubt about it.—I mark these circumstances to you, because, in the evidence that is to be laid before you (and I am now stating the general character of the evidence, and not the principles upon which the charge is made)—in the evidence to be laid before you of the plan for the execution of these purposes, some very remarkable particulars occur; and when you come to decide upon this case, I humbly beg your attention to those particulars;—some very remarkable particulars will occur.

You will find that the leading clubs, by which I mean the Constitutional Society, judging of its conduct for the purpose of this cause, though in some other cases we must go further back, but, for the purpose of this cause, judging of its conduct from about the beginning of the year 1792, and the London Corresponding Society, which was formed, whether created, I will not say, but which was modelled by some leading members of the Constitutional Society, and received its corporate existence, if I may use the term, as it will be proved, under their own hand-

writing—most distinctly from the hand-writing of some, who yet belong, and some, who have ceased to belong to the Constitutional Society; these leading societies, you will find, enlisting into their affiliation many societies in the country, composed of men who expressed their doubts as to the views of these societies in London,—who expressed their fears as well as their doubts about those views—who required information as to the purposes of those societies in London—some of these societies in the country professing one set of principles, some another;—but all assistance is taken that is offered: accordingly you will see that the London societies enlist persons who profess, “that they ought to submit to no power but what they have themselves immediately constituted:”—to these they give answers, couched in dark, cautious, prudent, but satisfactory and intelligible terms: those, who profess still to have attachments to the monarchy of the country, and who express apprehensions about its safety from the principles of the London societies, and the conflicting principles of various country societies, they soothe into fraternization, by telling them that all would be set right “by a full and fair representation of the people in Parliament;”—a name which was given to the Commons under Cromwell, as well as to the legitimate Parliaments of this country at different periods,—without telling them either what these words meant, or how that Parliament was to operate to reconcile these differences, which you will find amounted *only* to the differences between an attachment to an absolute republic, and an attachment to a limited monarchy.

They enlist alike those, who expressed a wish to know whether they proposed *to reform the House of Commons*, and those who wished to know whether they intend to *rip up monarchy by the roots*; their answers were calculated to satisfy each of them, to satisfy whatever might be the disposition of those, who address the questions to them, requiring information upon subjects so totally different.

Gentlemen, this is not all: you will find again, that, for these purposes, publications upon the government of the country, which are alluded to in this Indictment, and which will be given to you in evidence, that publications upon the government of the country were adopted by those societies as their own, and circulated, if I may so express myself, in a mass, round the country, circulated in a manner, that totally destroys the liberty of the press in this country—The liberty of the press in this country never ought to be under an undue correction of the law, but it must always be, for the sake of the people, subject to the correction of the law: you will find that these publications are either brought into the world with such a secrecy as baffles all prosecution,—published without names of authors or of printers,—published by contrivance, I am sorry to say by contrivance published in the dead of night (though they are the works of men who have talents to state them to open day, if fit to be stated to open day), and published in quantities, which make the application of the wholesome provisions of the law utterly incompetent to the purpose of allowing the correction of the law to be as frequent as the commission of the offences against it.

Gentlemen, with respect to many of these publications I may take notice of what has happened in the history of this country, and though no man wishes less to talk of himself than I do, yet I am speaking in the presence of many, who have heard me both in Court and in Parliament respecting those publications to which I allude (and which will be offered to you in evidence), express the difficulty that my mind laboured under to concede that such a publication as the Address to the Addressers, was not, according to law, an overt act of high treason.—It did appear to me that the publication of the book called the Address to the Addressers was an overt act of high treason, for the purpose of deposing the King; at least I thought it required an ingenuity and subtlety, much beyond that which belonged to my mind, to state satisfactory reasons why it was not so; but there were reasons satisfactory to those who can judge better than I can, and therefore that book was treated only as a libel;—but when I come to see it, as connected with the mass of publications alluded to in this Indictment,—as connected with measures that I have to state to you in the course of opening this cause,—and as connected with the project which this Indictment imputes to depose the King, I say it is either most distinct evidence of an overt act of high treason, or it is an overt act of high treason itself.

Gentlemen, you will also not fail to observe (and I state it as a general feature and character of the evidence that I have to lay before you)—the malignant art, and, if I may so express myself, the industrious

malignity, with which discontent has been spread by these two societies in London, and the means of spreading it have been studiously and anxiously taught from society to society:—the means of spreading sedition, fresh as from London, in every town, all with reference (for they are not material, if you do not find they had such a reference) to the final accomplishment of the same purpose: you will not fail to observe, how the passions and interests of individuals have been assailed, and the method of assailing them taught, according to their stations in life—not merely upon government,—but, for the purpose of subverting government, upon tithes—corn-bills—taxes—game-laws—impress service—any thing that could be represented as a grievance, as well as the government itself, and to this intent—that, in aid and assistance of each other, societies, as they expressed it, “might overspread the whole face of “the island,” and “that the island might become “free”—you will mark their expressions—“by the “same means, by which France became so.”

Gentlemen, in stating to you the character of the evidence, it is necessary for me to make one observation, and it is the last I shall trouble you with: it is with respect to the principles upon which construction is to be given to the written evidence that will be adduced in this cause. Now, I desire to state this to your minds, as a principle perfectly reasonable in the administration of justice towards men, who are called upon to answer for offences, that the language, which they use, ought to be considered according to its obvious sense. If the language admits, and naturally

admits, of a double interpretation, it must then be considered according to the nature of the *principle*, which that language is calculated to carry into execution; each paper must be considered with reference to the context of the same paper, and with reference to the contents of all other papers, that form the evidence of the same system, which the paper produced is meant to prove.

Now, if you should find that, in *detailing* the objects of this Society, in detailing what they meant to do, and in detailing how they meant to execute what they purposed, they should in fact have stated, that they meant neither that which was legal,—nor that which was constitutional,—nor that which was other than treason, it will be in vain that they have thought fit (for the greater prudence, the greater care, and the greater caution, which you will have most abundant evidence to prove they exercised occasionally, but add to the guilt by increasing the danger) to assert at other times, when they have used general language, that what they meant to effect was legal, and that they meant to effect it in a legal and constitutional manner. It will become those, who have the defence upon their hands, to state to you how, in a legal and constitutional manner, those things could be done, which were intended to be done, and which this Indictment states were intended to be done, if I prove to your satisfaction that they were intended to be done by the means and instruments, which the Indictment refers to.

Gentlemen of the Jury, their principle, as you will find, was, that equal active citizenship is the right of

all men, and that upon this principle their representation of the people was to be asked for. Now, it requires no reasoning to state, that a representation of the people founded on the principle of equal active citizenship of all men, must form a Parliament into which no King, nor Lords, could enter. There is an end of equal active citizenship the moment that either of them exists, according to my construction of equal active citizenship, and according to *their construction of it*; for they state that the effect of it is a *representative government*. But it is not enough for me to tell you that, in reasoning, this is the consequence;—it is a circumstance to be taken into your consideration; but I say I shall satisfy you, if I am bound to go further, that the application of the principle of equal active citizenship, *according to them*, was to be the foundation of a *representative government*, rejecting the King and Lords out of the system. The principles were the principles upon which the constitution of France, in the year 1791, was formed: the principles of that constitution were the principles of equal active citizenship: they attempted indeed to preserve a King in the constitution, and to form what I may call a royal democracy: but I shall prove to demonstration, that the leaders of these clubs in London knew that that constitution could not exist, that their principles led them to a distinct knowledge that that constitution could not exist: it was in the month of August 1792 entirely overturned; and you will find from the transactions of this Society in the months of October and November 1792, unless I mistake the

effect of the evidence, the clearest demonstration that these societies meant in applying those principles, which they themselves state had destroyed the existence of a King in France,—because they must destroy the existence of a King in any country, you will find that, from October 1792 at least, these societies meant to destroy the King in this country, and that this was the natural effect of their own principles, as they understood them.

Gentlemen, you will now give me leave to state to you, as well as I can, and as intelligibly as I can, the mass of evidence, and the case which I have to lay before you.

The particular act, the nature of which will be to be explained by all the rest of the evidence, which has led to the including these particular persons in one Indictment, arose out of a letter, dated the 27th of March 1794, which was written by the Prisoner, then the secretary to the London Corresponding Society, to to the Society for Constitutional Information. The words of it are these :

“ I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that Society respecting the important measures which the present juncture of affairs seem to require. The London Corresponding Society conceives that the moment is arrived”—mark the words ; for, in the rest of what I have to state, you will frequently hear of the time to which that alludes—“ when a full and explicit declaration is

“ necessary from all the friends of freedom, whether
 “ the late illegal and unheard of prosecutions and sen-
 “ tences shall determine us to abandon our cause, or
 “ shall excite us to pursue a radical reform with an
 “ ardour proportionate to the magnitude of the object,
 “ and with a zeal as distinguished on our part as the
 “ treachery of others in the same glorious cause is
 “ notorious. The Society for Constitutional Informa-
 “ tion is therefore required to determine whether or no
 “ they will be ready, when called upon, to act in con-
 “ junction with this and other societies, to obtain a
 “ fair representation of the people.” Gentlemen, give
 me your attention presently to what they conceive
 to be a fair representation of the people, when I come
 to state the resolutions which they transmit ! “ Whether
 “ they concur with us in seeing the necessity of a
 “ speedy *Convention* for the purpose of obtaining”
 (then they use the words) “ in a constitutional and
 “ legal method”—of the effect of which you will
 judge presently, for the method will not be the more
 constitutional and legal for their calling it so, if the
 method is in fact unconstitutional and illegal—“ a
 “ redress of those grievances under which we at present
 “ labour, and which can only be effectually removed
 “ by a full and fair representation of the people of
 “ Great Britain. The London Corresponding Society
 “ cannot but remind their friends that the pre-
 “ sent crisis demands all the prudence, unanimity,
 “ and vigour, that ever may or can be exerted by men
 “ or Britons ; nor do they doubt but that manly firm-
 “ ness and consistency will finally, and they believe

“ shortly, terminate in the full accomplishment of all
“ their wishes.”

They then resolve, and these resolutions are enclosed:
“ 1st, That dear as justice and liberty are to Britons,
“ yet the value of them is comparatively small without
“ a dependency on their permanency, and there can
“ be no security for the continuance of any rights but
“ in equal laws.

“ 2d, That equal laws can never be expected but
“ by a full and fair representation of the people; to
“ obtain which, in the way pointed out by the consti-
“ tution ”—you will see what that is in the third reso-
lution—“ has been and is the sole object of this Society:
“ for this we are ready to hazard every thing, and
“ never but with our lives will we relinquish an object
“ which involves the happiness, or even the political
“ existence of ourselves and posterity.

“ 3d, That it is the decided opinion of this Society
“ that, to secure ourselves from the future illegal and
“ scandalous prosecutions, to prevent a repetition of
“ wicked and unjust sentences, and to recall those wise
“ and wholesome laws which have been wrested from
“ us, and of which scarcely a vestige remains ”—
Gentlemen, you will permit me to call your attention
to what the objects were which were to be accomplished
—“ there ought to be immediately ”—what?—“ a
“ *Convention of the people by delegates deputed for that*
“ *purpose from the different societies of the friends of*
“ *freedom.*” And what are the purposes which this
convention, which they themselves represent as a con-
vention of the people, are to execute? Why they, the

delegates, forming a convention of *the people*, are to recall those wise, wholesome laws, which they say have been wrested from them. Before I have done, I shall prove distinctly that this is the meaning of the passage, and the meaning of the passage will be to be collected from the whole of the evidence undoubtedly, not from this particular part of it.

The Constitutional Society, there being present at that time six of the persons mentioned in this Indictment, without any deliberation whatever, upon a proposition so material as this is—and therefore it must be left to you, upon the whole of the evidence, whether it is fairly to be inferred or not, that this, like a great many other papers of the London Corresponding Society, really came from the Constitutional Society—they immediately ordered that their secretary shall acquaint the London Corresponding Society, that they had received their communication, that they heartily concur with them in the objects they have in view, and that for that view, and for the purpose of a more speedy and effectual co operation, they invite them to send to this Society, next Friday evening, a delegation of some of their members.

Without now going into the particulars of what followed upon this, give me leave to state, that some members of the Society, included in this Indictment, were named to compose that delegation; that there was named at the same time a Committee of Correspondence of six members of this Society; that afterwards the London Corresponding Society formed another committee; that the two committees met;

that the two committees meeting, came to a determination that this project of calling a convention of the people should be carried into effect; and then, that a joint committee of co-operation of both societies was formed by resolutions of both.

Having stated what happened upon the 27th of March 1794, and connecting it, as I shall do presently, with the very singular facts which you will find also happened in that year, you will give me leave, in order to show what the true construction of this Act is, as well as to state the grounds upon which the Indictment, even without this Act, charges a conspiracy to depose the King—you will give me leave to state the transactions of these societies from the month of March 1792.

Gentlemen, in or about the month of March 1792—whether before that time the London Corresponding Society had existed or not, seems to me to be dubious, and therefore I will make no assertion of that one way or other; but supposing it to have existed, it will be made extremely clear that this society existed at that time without a constitution, as they call it, and was indebted to a gentleman of the name of Tooke for the constitution under which the Society was modified, and was indebted, I think, to a gentleman of the name of Vaughan, for his assistance in the composition of the code of its laws.

The first correspondence that I find between the Constitutional Society and the London Corresponding Society, which I have to state to you, is in the communication of the principles of the Corresponding Society, sent with a letter signed by the Prisoner at the bar,

which letter is in the following words : “ I am ordered
“ by the Committee to send to the Society for Consti-
“ tutional Information in London, a copy of our motives
“ for associating, and the resolutions we have come to :
“ we mean to persevere in the cause we have embarked
“ in, that is, to have (if possible) an equal represen-
“ tation of the people of this nation in Parliament.”

I observe here for a moment that you will not be surprised, when I get to the conclusion of this business, that this cautious language was used in the outset : it will be for you to judge whether a studied caution is fairly imputable to the language. It proceeds thus : “ We should be exceedingly happy to enter
“ into a correspondence with that Society, if it is not
“ too much presumption in us to expect such an
“ honour ; but, as our cause is one, we hope that they
“ will deign to take some notice of us, who are now
“ entering upon a matter of such vast importance.”

This is extremely condescending language on the part of Mr. Hardy to the Constitutional Society : it accompanies the resolutions of that Society, which resolutions purported to be signed “ Thomas Hardy, Secretary.” It happened, by an accident not very easy to be accounted for at present, and, notwithstanding which, I shall prove distinctly to you that the resolutions are the act of Mr. Hardy ; that this signature—
“ Thomas Hardy, Secretary”—is the signature, as I am instructed, in the hand-writing of Mr. Horne Tooke ; that is, Mr. Hardy, in the London Corresponding Society, sends the resolutions of the London Corresponding Society (apologizing extremely for the liberty

he takes in presuming to send them) to the Constitutional Society, the signature to those resolutions bearing the name of Thomas Hardy in the hand-writing of Mr. Tooke : whether those resolutions were finally settled by that gentleman or not I do not know, but you will find that there exists a paper which contains, I think, distinct evidence upon the face of it, that those resolutions have been settled, with a good deal of deliberation, by the same gentleman whose hand-writing occurs in the signature which I have been stating.

Gentlemen, before these resolutions were sent, and before I state the matter of them to you, you will allow me to mention that there had been a correspondence, between other societies and the Society for Constitutional Information, of such a nature, as, in order to make this case intelligible, will require some observations from me, and some attention from you; it is the correspondence of other societies, but which correspondence I shall connect in such a manner with the London Corresponding Society, as in fact to make the acts of the other societies the acts of that Society.

Upon the 23rd of March, 1792, with a view to show you what were the principles of this Constitutional Society, I must state that they come to a resolution, "That the thanks of this Society be given to Mr. Thomas Paine, for his most masterly book entitled "The Rights of Man, in which not only the malevolent sophistries of hireling scribblers are detected, "and exposed to merited ridicule, but many of the "most important and beneficial political truths are "stated so irresistibly convincing, as to promise the

“ acceleration of that not very distant period, when
 “ usurping borough-sellers and profligate borough-
 “ buyers shall be deprived of what they impudently
 “ dare to call their property—the choice of the repre-
 “ sentatives of the people. The Constitutional Society
 “ cannot help expressing their satisfaction that so valu-
 “ able a publication has proceeded from a member of
 “ that Society, and they sincerely hope, that the
 “ people of England will give that attention to the
 “ subjects discussed in Mr. Paine’s treatise, which their
 “ manifest importance so justly deserves.”

Then they resolved, for what purpose you will judge of, when I come to state to you the subsequent evidence in this business—“ That the foregoing resolutions, and all future proceedings of this Society, be regularly transmitted by the Secretary to all our Corresponding Constitutional Societies in *England* *Scotland*, and *France*.”

Now, Gentlemen, as I shall prove what the book was to which this resolution alluded, I shall take the liberty at present to state in a few words to you, as far as they affect the existence of a King in this country, those subjects, which, according to the language of this resolution, the Constitutional Society sincerely hope that the people of England would give attention to, as discussed in Mr. Paine’s first book. In that book these doctrines, with respect to Great Britain, are laid down : “ A constitution is not a thing in name only, but in fact ; it has not an ideal, but a real existence ;” and you will find this extremely important, because in the result of the whole evidence that I have

to lay before you, it will appear that they did not only distinctly disavow making any application to Parliament, but the competence of Parliament to do any thing by way of reform, because the country had as yet no constitution formed by the people. Mr. Paine proceeds: "Can Mr. Burke produce the English constitution? If he cannot, we may fairly conclude that no such thing as a constitution exists."

After stating that the Septennial Bill showed that there was no such thing as a constitution in England, the book states a further fact, not immaterial, that the bill, which Mr. Pitt brought into Parliament some years ago to reform Parliament, was upon the same erroneous principle, that is, upon *the principle that Parliament was able to reform itself*. With respect to other subjects, to which the attention of the people of England was called, you will find that this book, speaking of modes of government (and this is also extremely material with reference to the construction of what is afterwards to be stated to you) represents that "the two modes of government which prevail in the world are, first, governments by election and representation; secondly, governments by hereditary succession: the former is generally known by the name of republican, the latter by that of monarchy and aristocracy."

He divides Government into government by election and representation;—a representation founded upon election, and election founded upon universal suffrage;—and government by hereditary succession. He then states that, from the revolutions of America and France,

and the symptoms that have appeared in other countries, it is evident the opinion of the world is changing with respect to government, and that revolutions are not within the progress of political calculation; and that the British government, not existing upon the principles he recommends, is not a government existing upon such principles that a nation ought to submit to it; and that the Parliament of the country is not *able to form a government*, that will exist upon those principles.

Gentlemen, it is a very remarkable circumstance, as it strikes me, that, though various societies had existed in other parts of Great Britain, till about the time of the formation of the London Corresponding Society, none of these societies had asked or invited the affiliation with the London Constitutional Society, which you will find they all ask and all invite about March 1792, whether by management or not, I do not pretend to determine, it will be for you to judge; but they all ask and all invite affiliation with the Constitutional and Corresponding Societies, as soon as the latter is formed.

Upon the 16th of March 1792, you will find a resolution of the Society for Constitutional Information, which states and returns thanks for a communication from Manchester, signed "Thomas Walker, president," and "Samuel Jackson, secretary;" in which "they
"return the thanks of the society to Mr. Thomas
"Paine," who appears to have been a member, a visitor of this Constitutional Society, "for the publication of his Second Part of the Rights of Man, combining *Principle* and *Practice*." I shall endea-

vour to state to you in a few words what is the combination of the practice, stated in the Second Part of the Rights of Man, with the Principle in the First Part, “a work,” they say, “of the highest importance to every nation under heaven, but particularly to this, as containing excellent and practicable plans for an immediate and considerable reduction of the public expenditure, for the prevention of wars, for the extension of our manufactures and commerce, for the education of the young, for the comfortable support of the aged, for the better maintenance of the poor of every description, and, finally, for lessening, greatly, and without delay, the enormous load of taxes, under which this country at present labours.

“That this Society congratulate their country at large on the influence which Mr. Paine’s publications appear to have had in procuring the repeal of some oppressive taxes in the present session of Parliament; and they hope that this adoption of a small part of Mr. Paine’s ideas will be followed by the most strenuous exertions to accomplish a complete reform in the present inadequate state of the representation of the people, and that the other great plans of public benefit, which Mr. Paine has so powerfully recommended, will be speedily carried into effect.”

Now, Gentlemen, as Mr. Paine’s plan for the remedy of the present inadequate state of the representation of the people was alluded to, and this book was alluded to, which combined “principle” and “practice,” and as it is stated that the other great plans of public benefit, which he had so powerfully recommended, would

be speedily carried into effect, it will be necessary to show you, from this letter, what were those plans for the remedy of the inadequate state of the representation of the people, and other plans of public benefit, which this Society, receiving the thanks of the Constitutional Society, hoped would be carried into effect.

Gentlemen, I do not take up your time in stating the passages to you, but represent to you the substance of that book; that it is a book distinctly and clearly recommending the deposition of the King: if the passages in that book do not prove that assertion, there is no evidence that can prove any assertion: it is a book, moreover, which not only puts the King out of the system of the government of the country, but, according to which, if a perfect representation of the people is to be formed, it is to be formed not by a Parliament existing in a country—in which that gentleman states that no constitution exists—not by that Parliament, which he states to be totally and absolutely inadequate to the great work of forming the constitution upon the rights of man and equal active citizenship, which he recommends: it is a work, which calls upon the people of England to do themselves justice in another way of proceeding, and to form a constitution for themselves before they can have any government, which is to exist upon true principles. There is then, I say, in the beginning of this thing, a development of these purposes; and I say, beyond that, that if I understand the effect of evidence at all, I shall satisfy you that those, who voted this resolution of thanks, knew that the principles there referred to, were

principles that would have this operation, and meant that they should have this effect.

The next thing I have to state, which I shall not go through very particularly, is contained in a resolution of the Constitutional Society (some of the members of which, I shall prove to you, began to leave the Society about this time, stating distinctly that they understood its principles to be now different from the principles it had formerly acted upon, and to be such principles as I have stated) entered into upon the 23d of March 1792. They resolved that another communication, which is from Sheffield, should be published in the Morning Chronicle, and in several other newspapers, which they mention.

With respect to the communication from Sheffield, (and it is a remarkable thing that, from Sheffield, and from Norwich, they should be writing, on the same day, for the same purpose—that the societies of Sheffield and Norwich might be affiliated with the London Constitutional Society, and the Sheffield people were so anxious about it, if it were their own act and deed, that they wrote more than one letter in order to ask it), it is to this effect:

“ It is now about four months since this Society first
“ formed itself into a regular body; they were then
“ but very few in number; the enclosed will inform
“ you of their increase, and, which is most probable,
“ will soon become very numerous; and not only this
“ large and populous town, but the whole neighbour-
“ hood for many miles round about, have an attentive
“ eye upon us: most of the towns and villages indeed

“ are forming themselves into similar associations, and
 “ strictly adhere to the mode of copying after us : you
 “ will easily conceive the necessity for the leading
 “ members of this body to pay strict attention to good
 “ order and regularity, and the need we have of con-
 “ sulting and communicating with those, who are
 “ sincere friends and able advocates for the same cause ;
 “ for these reasons we took the liberty to write to Mr.
 “ Horne Tooke, that worthy friend and patriot for the
 “ rights of the people, informing him of our earnest
 “ desire of entering into connexion with the Society of
 “ the same denomination of ours in London ; his very
 “ obliging and affectionate answer favours us with your
 “ address ; in consequence, we have taken the liberty
 “ herewith to transmit to you some resolves, which
 “ were passed at our last meetings by the whole body,
 “ and the committee was charged with the dispatch of
 “ printing and forwarding them to you accordingly,
 “ for the purpose of submitting them to the considera-
 “ tion of your Society, and to make use of them as
 “ they think most prudent. You will also notice the
 “ Belpar address : they applied to us about two months
 “ ago for instructions as to our mode of conducting,
 “ &c. had not then formed themselves into any regular
 “ association. Belpar is nearly thirty miles from this
 “ place, in Derbyshire, and eight or ten miles from
 “ Derby.

“ If the Society for Constitutional Information in
 “ London should vouchsafe so far to notice us, as to
 “ enter into a connexion and correspondence with us,
 “ it cannot fail of promoting honour, and adding

“ strength to our feeble endeavours, and to the com-
“ mon cause, which is the entire motive we have in
“ view.”

They then, upon the 14th of March 1792, knowing that there was a connexion between the London Constitutional and London Corresponding Society (and that they should know that fact on the 14th of March, which is sixteen days before the 30th, when Mr. Hardy sent to Mr. Tooke the resolutions which were signed in the name of Mr. Hardy by Mr. Tooke, as a communication to him that there was such a body as the London Corresponding Society, is a circumstance that affords observation); they then add, “ We have taken
“ the liberty of enclosing a parcel for Mr. Hardy, in
“ answer to a letter from him to this Society, request-
“ ing some information concerning our method of con-
“ ducting the business we had embarked in, &c. also
“ informing us there are in London a number of
“ mechanics, shopkeepers, &c. forming themselves into
“ a society on *the broad basis of the rights of man*.
“ You will be so obliging as to let the packet remain
“ with you until he call for it, as by this post I have
“ wrote him thereof. We have given him our manner
“ of proceeding from our setting out to this time, and
“ hope it may be of some use. The improvement we
“ are about to adopt is certainly the best for managing
“ large bodies, as in great and populous towns, viz.
“ dividing them into small bodies or meetings of ten
“ persons each, and these ten to appoint a delegate;
“ ten of these delegates form another meeting, and so
“ on, delegating from one to another, till at last they

“are reduced to a proper number for constituting the
“Committee or Grand Council.”

There is another letter, of the same date, which has a remarkable circumstance about it. It is addressed to the Constitutional Society. Gentlemen, it states that “this Society,” that is, the same Sheffield Society, “feeling, as they do, the grievous
“effects of the present state defects and abuse of
“our *country*”—(the word originally in this letter was *constitution*, but the word constitution, not being that which was liked, by some very odd accident in the letter from Sheffield, the word *country*, in the hand-writing of Mr. Tooke, is substituted for *constitution*)—“the great and heavy oppressions, which
“the common people labour under, as the natural
“consequence of that corruption, and at the time
“being sensible to a degree of certainty, that the
“public minds and the general sentiments of the
“people are determined to obtain a radical reform of
“the country,” you will mark these words, “as
“soon as prudence and discretion will permit, be-
“lieves it their duty to make use of every prudent
“means, as far as their abilities can be extended, to
“obtain so salutary and desirable an object, as a
“thorough reformation of our country,” the word *country* being again in the hand-writing of Mr. Tooke,
“established upon that system, which is consistent
“with the rights of man”—for these reasons they state their forming into clubs, as the former letter did, and they conclude thus—“that being thus
“strengthened, this Society may be better enabled

“ to govern itself with more propriety, and to render
 “ assistance to their fellow-citizens in this neigh-
 “ bourhood, and in parts more remote, that they in
 “ their turn may extend useful knowledge still further
 “ from town to village, and from village to town,
 “ until the whole nation be sufficiently enlightened
 “ and united in the same cause, which cannot fail
 “ of being the case, wherever the most excellent works
 “ of Mr. Thomas Paine find residence.”

Those works are the works which have held an hereditary monarchy, however limited, to be inconsistent with the rights of man; which have held the constitution of Parliament in this country to be inconsistent with the rights of man: and those works, upon the principles of that inconsistency, have held even the Parliament itself incompetent to reform any abuses in government.

The paper they transmit states as a fact, that the number of members at Sheffield were, in March 1792, two thousand. That the Constitutional Society in London and the Constitutional Society at Sheffield, thus numerous, should have had no connexion by affiliation till the 14th of March 1792, though, on that 14th of March 1792, it appears that the Sheffield Society had had correspondence, and had become connected with the London Corresponding Society, prior to the London Corresponding Society sending the paper I before stated to the Constitutional Society, is somewhat remarkable.

The paper proceeds thus: “This Society, composed chiefly of the manufacturers of Sheffield,

“ began about *four months ago*, and is already increased to nearly two thousand members.” In this letter, dated March 14, 1792, they state it to have amounted to two thousand, exclusive of neighbouring towns and villages, who were forming themselves into similar societies. They then state the principles upon which the societies are formed, and that “ they have derived more true knowledge from the two works of Mr. Thomas Paine, entitled Rights of Man, Part the First and Second, than from any other author on the subject. The practice as well as the principle of government is laid down in those works, in a manner so clear and irresistibly convincing, that this Society do hereby resolve to give their thanks to Mr. Paine for his two said publications entitled Rights of Man.”

Gentlemen, I beg your pardon for addressing you so much at length on this case, but I feel it my bounden duty to the public, to you, and to the Prisoner at the bar, to warn you fully of the whole of it. There is nothing which, I am sure, would more certainly happen, than that I should go, not only out of this Court, but to my grave, with pain, if I should have stated to you in a proceeding of this nature the doctrines of Mr. Paine, otherwise than as I think of them. If that is meant to be intimated, that we may have no dispute about them, and that we may not misunderstand what is that principle, and that practice, to which the passage I have now read alludes, you will allow me to read a few passages out of this Second Part of the Rights of Man, said to contain

both the principle and practice of government, and then I ask you what those must have intended, with respect to the government of this country, who meant to take any step in order to make a change in it, in such a way as the principle and practice laid down in that book would require them to make it, recollecting that the government of this country is a government consisting in a King, having an hereditary crown, together with Lords and Commons, forming a Parliament according to the laws and constitution of England.

Now, that author, in the first place, expresses a great deal of what possibly may be differently thought of by other persons, but what I cannot call good will to the people of England—for he says, “that during “the time of the American war, he was strongly “impressed with the idea, that if he could get over “to England without being known, and only remain “in safety till he could get out a publication, that he “could open the eyes of the country with respect to “the madness and stupidity of its government.”

Let us see in what that madness consisted according to him: having stated in his former book that a government ought to exist in no country, but according to the principles of the rights of man—he repeats again the distinction he had stated in his former book, between what he calls the two systems: he says, “that the one now called the old is hereditary, either in whole or in part,” which is that of England; “and the new is entirely representative,”—that is, a government consisting of a Commons

House, if you choose to call it.—We know, that in 1649 the ruling government in this country was called a Parliament, called a Commons House, and it was then enacted, that if any person should attempt to put a King into this country, they should be deemed traitors, with much less of an overt act manifested, than is necessary at this day. Again, it is stated, “an heritable crown, or an heritable throne, or by whatever fanciful name such things may be called, have no other significant explanation than that mankind are heritable property. To inherit a government, is to inherit the people, as if they were flocks and herds.”

“Hereditary succession is a burlesque upon monarchy. It puts it in the most ridiculous light by presenting it as an office, which any child or idiot may fill. It requires some talents to be a common mechanic, but to be a King requires only the animal figure of man, a sort of breathing automaton. This sort of superstition may last a few years more, but it cannot long resist the awakened reason and interest of man;” then, “in whatever manner the separate parts of a constitution may be arranged, there is one general principle, that distinguishes freedom from slavery, which is, that all hereditary government over a people is to them a species of slavery, and representative government is freedom;” then, speaking of the crown of England, that crown, in which, according to the law and constitution of this country, according to its principle and practice, is vested the

sovereignty in the manner in which I have stated it, he says, "having thus glanced at some of the defects of the two Houses of Parliament, I proceed to what is called the Crown, upon which I shall be very concise.

"It signifies a nominal office of a million sterling a year."—Again, Gentlemen, give me leave to observe that this, which has been so often detailed for the worst of purposes, cannot but be known to those who know any thing of the constitution of the country—(I charge nobody else—those who know any thing of the constitution—I charge not those who do not know it)—to be in substance a gross misrepresentation—"the business of which consists in receiving the money. Whether the person be wise or foolish, sane or insane, a native or a foreigner, matters not. Every minister acts upon the same idea that Mr. Burke writes, namely, that the people must be hoodwinked, and held in superstitious ignorance by some bugbear or other; and what is called the Crown answers this purpose, and therefore it answers all the purposes to be expected from it."

Gentlemen, in another part of this work, you will find that Mr. Paine was very well aware of what these Sheffield correspondents were aware of, if they were the composers of the letter to which I have alluded; that the principles laid down in the constitution of France, which these two books were to recommend, and the principles stated in Paine's first book, were absolutely inconsistent with the constitu-

tion itself of France, as it existed at that moment; and Paine prophetically (he would not have had common sense if he had stated it otherwise), even in the beginning of 1792, when he publishes this book, foretells that the government of France, with a King a part of it, upon his principles, and the principles professed by the constitution of France, could not exist: he foresaw that in August 1792, and I will prove, that those persons, who were thus approving the principles and practice of Paine, knew that a King could not exist consistently with those principles; and they adopted them therefore, as we insist, in order that a King should not exist in this country.

Gentlemen, these resolutions being received perhaps from Sheffield, a step is taken upon them in the Constitutional Society, and a step, which gives an authenticity to the book I have in my hand, namely, the book of their proceedings, which is remarkable enough, for in this Society's book there are these resolutions, which are supposed to be received from Sheffield, wafered to the book, and then with a view of a publication of them, in the Morning Chronicle, World, Post, Times, Argus, English Chronicle, and General Evening Post, for the purpose of circulating the principles of Mr. Thomas Paine, and for the purpose of circulating the representation, which is made in these resolutions. There is first of all, in Mr. Tooke's hand-writing,—“*Society for Constitutional Information, London, March 23rd, 1792.*” “*This Society having received the following and other*” “*communications from Sheffield, viz.*”—his hand-

writing—then, “*March 14th, 1792,*”—his hand-writing—then the words “*two thousand members,*” scored under, I cannot say by him, but by somebody, I suppose for the purpose of being printed in Italics; and there is at the conclusion of this minute in the hand-writing of Mr. Tooke:—

“*That the secretary do return the thanks of this Society to the Society for Constitutional Information established at Sheffield, and that he express to them with what friendship and affection this Society embraces them, as brothers and fellow-labourers in the same cause ;*”—of principle and practice I suppose. “*That he do assure them of our entire concurrence with their opinion, viz. that the people of this country are not, as Mr. Burke terms them, swine ;*”—the writer of this must have known very well the sense in which an improper word, I readily admit, was used by the person to whom he now alludes,—“*but rational beings better qualified to separate truth from error than himself, possessing more honesty and less craft.*”

“*Resolved, that this Society will on Friday next, March 31st, ballot for the twelve associated members recommended by the Sheffield committee, and approved at this meeting.*”—Then this paper is thus ordered to be published for the primary purpose, I submit, of recommending that principle and practice, which makes the Sheffield people “fellow-labourers” with the Constitutional Society in the same cause of principle and practice, and which both, in the principle and practice, was aimed at the destruction of the government of the country;—of that hereditary monarchy,

which Paine represents as tyranny ;—of that limited monarchy, which he represents as tyranny ; and for the purpose of recommending that *representative government*, which, I say, is the true sense of all the words which these people use : but this is not all—you will observe, that this paper of resolutions was accompanied by a letter, in which letter there is also the handwriting of Mr. Tooke, and that the paper states that two thousand members belong to the Society at Sheffield, and that this number is to be stated by publication, as the number of persons belonging to the Society at Sheffield. In another publication they are stated to amount to two thousand four hundred—in November 1793, it is stated, that there were many thousands : now you will see from the witnesses, some of these correspondents, these able men, who are so little corrupt, in the course of examination — you will see, unless I am mistaken in the effect of the evidence I have to offer, the truth of an observation that I made, that mankind were not to be misled, and societies were to be invited to be created, by the misrepresentation of numbers, and by giving to existing societies a colour in that respect, which did not belong to them ; for to this hour, after all the pains which have been taken with the Sheffield people (and what pains you will hear), those persons, who were two thousand, have yet arrived to but about six hundred.

Gentlemen, this Society, having in this letter expressed an inclination that they should have some associated members in the Constitutional Society, that affiliation begins in the Constitutional Society in

London, which I have alluded to; and accordingly you will find, that upon the 31st of March, twelve persons were ballotted for as from the Sheffield Society, and became associated members of this Society; you observe, that this letter had stated from Sheffield that they had received before a communication from Mr. Tooke, and Mr. Tooke afterwards writes a draught of a letter which is sent to them, in which he states, “ I
“ am directed by the Society for Constitutional Infor-
“ mation to acknowledge the receipt of your letter, and
“ to express to you that very great pleasure and satis-
“ faction which they received from your communica-
“ tion : the Society have unanimously elected twelve”
(here follow the names of the persons), “ as associated
“ members of this Society.” These persons being certainly, Gentlemen, extremely respectable men as subjects of Great Britain, but at the same time men, that one wonders a little should, upon such a purpose as this, without a little more instruction being infused into their minds, have been associated as members into this Society—“and we flatter ourselves, that when any
“ business or other occasion shall lead any of those
“ gentlemen to London, they will be kind enough to
“ honour the Society by their presence, and give us
“ an opportunity of cementing that friendship between
“ us, which all the zealous friends of public freedom
“ and the happiness of mankind ought to feel and
“ exercise towards each other.

“ P. S. I am desired, by Mr. Horne Tooke, to re-
“ quest each of the associated members to honour him
“ with the acceptance of the books which accompany

“this letter;”—which were, I apprehend it appears, so many parts of the Rights of Man.

Gentlemen, upon the 24th of March, 1792, a paper appears to have been sent to the Constitutional Society from a nest of societies, the United Constitutional Societies at Norwich: this was the 24th of March 1792, and it appears, as I am instructed, that the words “*24th March 1792,*” are also in the hand-writing of Mr. Tooke.

“At a meeting of the delegates of the United Constitutional Societies, held the 24th March, 1792, at the Wheel of Fortune, St. Edmund's, in the city of Norwich, it was unanimously agreed to communicate to the gentlemen of the London Society for Constitutional Information, the following resolutions:—

“1st. We are happy to see the success of the Sheffield Society for Constitutional Reform, and approve of the delegations, which you and they have made in order to form a plan of general information. We humbly beg that you would grant to us the same favour; and it is our wish, that all the societies of a similar kind in England were only as so many members strongly and indissolubly united in one political body.

“2dly. We believe that instructing the people in political knowledge, and in their natural and inherent rights as men, is the only effectual way to obtain the grand object of reform, for men need only to be made acquainted with the abuses of government, and they will readily join in every lawful means to obtain redress; we have the pleasure to

“inform you that our societies consist of some hundreds, and new societies are frequently forming, which, by delegates, preserve a mutual intercourse with each other, for mutual instruction and information; and the greatest care has been taken to preserve order and regularity at our meetings, to convince the world that riot and disorder are no parts of our political creed.

“3dly. We believe, and are firmly persuaded,” (and if any man thought so, he had a right to say so if he pleased,) “that Mr. Burke, the once friend of liberty, has traduced the greatest and most glorious revolution ever recorded in the annals of history; we thank Mr. Burke for the political discussion provoked, and by which he has opened unto us the dawn of a glorious day.

“4thly. To Mr. Thomas Paine our thanks are especially due for the first and second parts of the Rights of Man, and we sincerely wish that he may live to see his labours”—that is, the destruction of hereditary government and limited monarchy, and consequently the government of England—“crowned with success in the general diffusion of liberty and happiness among mankind.”

Gentlemen, this letter does not appear (though the words, the 24th of March, are in the handwriting of Mr. Tooke) to have been read in the Constitutional Society till the 14th of May 1792, when they read this letter, and also another, which I will now state to you, from the society called the Norwich Revolution Society.

“ The Norwich Revolution Society wishes to open
“ a communication with you at this time, when cor-
“ ruption has acquired a publicity in the Senate, which
“ exacts from the honour of the British nation renewed
“ exertions for parliamentary reform—without prejudg-
“ ing the probable event”—(this is a material passage,
when you connect it with what is found in other sub-
sequent papers)—“ even of such an application to the
“ Legislature, the Society is willing to circulate the
“ information, and to co-operate in the measures, that
“ may seem best adapted to further so desirable and so
“ important an end; it is willing to hope the redress
“ of every existing grievance at the hands of a govern-
“ ment resulting from an extraordinary convocation in
“ 1688—an extraordinary convention of all, who had
“ at any preceding time been elected representatives of
“ the people, assisted by the hereditary counsellors of
“ the nation, and a peculiar deputation from the metro-
“ polis; which national constituting assembly cashiered
“ for misconduct a King of the House of Stuart.”

The opinions and principles of this Society are best explained by an appeal to their literary representative—“ To James Mackintosh, author of the *Vindiciæ Gallicæ*, the Society offers the tribute of its appro-
“ bation and gratitude for the knowledge, the elo-
“ quence, and the philosophical spirit, with which he
“ has explained, defended, and commented on the
“ revolution of France; it hesitates to assent to this
“ only of his opinions—that there are but two interests
“ in society, those of the rich, and those of the poor—
“ if so, what chance have the latter? Surely the

“ interests of all the industrious, from the richest
“ merchant to the poorest mechanic, are, in every
“ community, the same to lessen the numbers of the
“ unproductive, to whose maintenance they contribute,
“ and to do away such institutions and imposts as
“ abridge the means of maintenance by resisting the
“ demand for labour, or by sharing in reward, as the
“ means most conducive to this comprehensive end,
“ the Norwich Revolution Society desires an equitable
“ representation of the people.

“ The Rights of Man by Thomas Paine, and the
“ Advice to the Privileged Orders by Joel Barlow,” a
book which I shall give in evidence, and therefore
shall state some passages from presently, “ have also
“ been read with attention and circulated with avidity.”
—Now Barlow’s book you will find is, in the plainest
and most unequivocal language, as I understand it, an
exhortation to all people to get rid of kingly govern-
ment, and addressed more particularly to the two socie-
ties I have mentioned, as containing the substance of the
business, in which they are interested, as you will see
when I come to state the transactions of October 1792.

“ The Rights of Man by Thomas Paine, and the
“ Address to the Privileged Orders by Joel Barlow,
“ have also been read with attention and circulated
“ with avidity; they point out with clearness most of
“ the abuses which have accumulated under the British
“ government; they attack with energy most of the
“ prejudices which have tended to perpetuate them.”

Now, how any man living could thank these people
without informing them that, if they really meant well

to their country, they must be ignorant in the extreme, or something worse, if they could reconcile either the Rights of Man or Joel Barlow's book on the Privileged Orders with the principles of that Convention in 1688, which is the foundation of the liberties of this country, is to me quite inexplicable. But, after stating the constitution of this country, in a letter fabricated with great art, there follow the twelve names of the intended associated members from Norwich, and the description of some of these twelve happens also, from a singular circumstance, to be in the hand-writing of Mr. Tooke. Then this Society returns thanks to the societies at Sheffield and Norwich for these communications.

The resolutions of the London Corresponding Society, which I told you were sent on the 30th of March, are to this effect :

“ Resolved, That every individual has a right to
 “ share in the government of that society of which he
 “ is a member, unless incapacitated.

“ Resolved, That nothing but non-age, or privation
 “ of reason, or an offence against the general rules of
 “ society, can incapacitate him.

“ Resolved, That it is not less the right, than the
 “ duty of every citizen, to keep a watchful eye on the
 “ government of this country, that the laws, by being
 “ multiplied, do not degenerate into oppression, and
 “ that those who are intrusted with the government do
 “ not substitute private interest for public advantage.

“ Resolved, That the people of Great Britain are
 “ not properly represented in Parliament.

“ Resolved, That in consequence of a partial, un-

“ equal, and inadequate representation, together with
“ the corrupt method in which representatives are
“ elected, oppressive taxes, unjust laws, restrictions of
“ liberty, and wasting of the public money, have
“ ensued.

“ Resolved, That the only remedy to those evils is
“ a fair and impartial representation of the people in
“ Parliament.

“ Resolved, That a fair and impartial representation
“ can never take place until partial privileges are
“ abolished, and the strong temptations held out to
“ electors afford a presumptive proof, that the repre-
“ sentatives of this country seldom procure a seat in
“ Parliament from the unbought suffrages of a free
“ people.

“ Resolved, That this Society do express their ab-
“ horrence of tumult and violence; and that, as they
“ aim at reform not anarchy, reason, firmness, and una-
“ nimity, be the only arms they employ, or persuade
“ their fellow-citizens to exert against abuse of power.”

Gentlemen, in this, which I have now read to you, I am willing, if you please, that you should construe every word of it, though certainly it is not consistent with the principles of British government, upon this principle, that those, who sent that paper to the Constitutional Society, if it even was sent there at all, really understood it to be consistent with the principles of the British government; and I claim no credit for the veracity with which I assert, that this conspiracy has existed, unless I show you by subsequent acts of this Society, that, at this moment, they meant what

Mr. Paine says, in principle, and practice, is the only rational thing—a *representative government*; the direct contrary of the government which is established here.

You will find, by what I shall lay before you, that there was a Society in Southwark—To this Society the London Corresponding Society, in a letter which I have to read to you presently, stated their adoption of all Mr. Paine's *principles*, with a view, as I think, to the *practice* recommended in his works; this Society also received the thanks of the Constitutional Society for a communication which I am about to state to you; and the London Corresponding Society afterwards entered, as it seems to me, into a combination with them, upon the principles stated in that communication: I say it is impossible, attending to these facts, for any man who reasons fairly, to doubt that the principle of the London Corresponding Society and of the Constitutional Society was to form a *representative government* in this country.

A declaration from a Society in Southwark was read:—“Resolved, That the thanks of this Society be given
“ to the Southwark Society for the following communi-
“ cation, and that it be published in the newspapers:

“ April 19, 1792, at the Three Tuns Tavern, South-
“ wark—Resolved, That we do now form ourselves
“ into a society for the diffusion of political knowledge.

“ Resolved, That the Society be denominated the
“ Friends of the People.

“ Resolved, That the following be the declaration
“ of this Society”—which is the preamble to the constitution in France, in the year 1791.

“ Considering that ignorance, forgetfulness, or contempt of the rights of men, are the sole causes of public grievances, and the corruption of government, this Society, formed for the purpose of investigating and asserting those rights, and of uniting our efforts with others of our fellow-citizens for correcting national abuses, and restraining unnecessary and exorbitant taxation, do hereby declare—

“ First, That the great end of civil society is general happiness.

“ Secondly, That no form of government is good, any further than it secures that object.

“ Thirdly, That all civil and political authority is derived from the people”—that people, of whom they were afterwards to form a convention.

“ Fourthly, That equal active citizenship is the unalienable right of all men; minors, criminals, and insane persons excepted.”

Now will my friend dispute with me what these principles, according to the ideas of those who state them, lead to?

“ Fifthly, That the exercise of that right, in appointing an *adequate representative government*”—that is, the government, which Mr. Paine tells you, rejects every thing that is hereditary—is what?—“ the wisest device of human policy”—not only that, but it is—“ the only security of national freedom.”—Then, is not that a direct assertion, that the British government exists upon principles not reconcilable with the principles of a government that can have any security, or such a security as it ought to have for general freedom?

The Society for Constitutional Information return their thanks upon that also, and then those persons who write this letter say farther in the same paper—

“ We call upon our fellow-citizens, of all descriptions, to institute societies for the same great purpose”—that is, the purpose of introducing representative government—“ and we recommend a general correspondence with each other”—but attached and rivetted to the Constitutional Society—“ and with the Society for Constitutional Information in London, as the best means of cementing the common union, and of directing with greater energy our united efforts to the same common objects.”

What were the objects of this Society? You will find that the objects of this Society were the objects of the Constitutional Society; and you will find presently, that they were the objects of the Corresponding Society:—The Constitutional Society resolved, “ that every society, desiring an union, or correspondence with this, and which doth not profess any principles destructive to truth or justice”—now this gives occasion for the first remark I have to make upon language—“ or subversive to the liberties of our country; but which, on the contrary, seeks, as we do, the removal of corruption from the Legislature and abuses from the Government, ought to be, and we hope will be embraced with the most brotherly affection and patriotic friendship by this Society.”

I observe upon this, that all this handsome language is perfectly consistent with this principle, in the minds of those who write it, and they do not venture to ex-

plain it, because I think they durst not explain it—with this idea in their minds, that those principles were destructive of truth and justice, were subversive of the liberties of the country, which were principles in opposition to those of Mr. Paine: and that all practice, that was in opposition to the practice he recommends, was subversive of the liberties of the country.

I come now to a circumstance or two, which lead me to state shortly what will be proved to be the original constitution of the London Corresponding Society—the plan, (the efficacy of which had been tried in France, and which men, who came from that country, were probably well acquainted with)—was to unite, first, small bodies of men—as soon as they came to a greater number, to divide them into smaller parties, and so to spread themselves by degrees (as you will find in the letters, was the purpose of these societies), from town to town, from village to village, from hamlet to hamlet, till, as they explain it, there should not be an unenlightened man in the country.

The constitution of the London Corresponding Society was formed upon this principle; it will appear from the written evidence which will be produced to you, that a gentleman of the name, I think, of Felix Vaughan, was appointed a delegate upon the 30th of April, for No. 63; that Mr. Hardy consulted him; and, being also appointed to form a constitutional code of laws for the London Corresponding Society, Mr. Hardy consulted him upon that subject. The preamble to the resolutions which formed their constitution was this: “Whereas it is notorious that very

“ numerous, burdensome, and unnecessary taxes are
“ laid on the persons and families of us and others
“ the industrious inhabitants of Great Britain, an ex-
“ ceeding great majority of whom are, notwithstanding,
“ excluded from all representation in Parliament; and
“ as, upon inquiry into the cause of this grievance,
“ which is at once an obstruction to our industry, and
“ a diminution of our property, we find that the con-
“ stitution of our country, which was purchased for us
“ at the expense of the lives of our ancestors, has, by
“ the violence and intrigue of criminal and designing
“ men, been injured and undermined in its most essen-
“ tial and important parts, but particularly in the
“ House of Commons, where the whole of the sup-
“ posed representation of the people is neither more
“ nor less than an usurped power”—I hope, Gentle-
men, it cannot be required that I should contend
against such an assertion in this place, if a court of
law in this country has not lost all the character that
belongs to law ; how that usurped power was ever to
be employed as an organ in the constitution of that
new representative body that this Society aimed at,
consistent with their own principles, remains to this
moment unintelligible to me—“ arising either from
“ abuses in the mode of election and duration of Par-
“ liaments, or from a corrupt property in certain de-
“ cayed corporations, by means of which the liberties
“ of this nation are basely bartered away for the
“ bribed profit of the Members of Parliament : and
“ as it further appears to us, that, until this source of
“ corruption shall be cleansed by the determination,

“ perseverance, firmness, and union of the people at
“ large, we are robbed of the inheritance so acquired
“ for us by our forefathers, and that our taxes, instead
“ of being lessened, will go on increasing, as they will
“ furnish more bribes, places, and pensions, to Ministers
“ and Members of Parliament: we therefore, having
“ resolved to unite ourselves into one firm and perma-
“ nent body, for the purpose of informing ourselves
“ and others of the exact state of the present parlia-
“ mentary representation, for obtaining a peaceable
“ but adequate remedy to this intolerable grievance,
“ and for corresponding and co-operating with other
“ societies, united for the same objects, have unani-
“ mously adopted the following regulations for the
“ internal order and government of our Society.”

They then state their regulations; and their constitution having been thus formed, they publish it afterwards in the month of May. What observations they state to the public upon it in the month of May, I shall have occasion to represent presently; you will see the manner of proceeding with respect to the election of their delegates, by the production of a particular paper. On the 13th of April, a person, whom you have heard much of, Mr. Margarot, is appointed a delegate; upon the 30th of April, Mr. Vaughan was, as far as the paper is evidence of the fact, appointed delegate for No. 63; Mr. Richter, a party named in this Indictment, and Mr. Martin, another party, against whom the Grand Jury have found a bill, but who is not named in this Indictment, are also appointed delegates. Mr. Hardy is not only secretary,

but he is appointed, upon the 13th of April, a delegate ; and there is a choice of delegates for the whole of these bodies. You will find they afterwards met from time to time, to pursue the great purposes of their incorporation, at an alehouse, I think the Bell, in Exeter Street, in the Strand, from which place some of the correspondence I am about to state to you comes.

Gentlemen, the Society for Constitutional Information, having affiliated several societies very suddenly with themselves—whether Mr. Paine remained in this country or not I cannot tell—they felt an inclination to affiliate with another Society, which is to be, as it appears to me, in justice to them, very strongly distinguished indeed with respect to the principles upon which they acted, I mean the Society calling itself the Friends of the People, meeting at Freemason's Tavern ; with what prudence or discretion that Society formed itself is a subject which I shall not discuss, but it is a most important fact, that in the first attempt, which the Society for Constitutional Information made (and it ought to be known in justice to the Friends of the People), the first attempt they made to affiliate themselves with the Society of the Friends of the People, that Society, in correspondence that will be read to you, acts as some individual members of the Constitutional Society had done, they say—“ No, we discover your
“ design from what you are doing ; you tell us, from
“ your approbation of resolutions entered into at Manchester, signed by Mr. Walker and Mr. Jackson, that
“ you approve the sort of schemes Mr. Paine has set

“ forth ;—that you approve projects of giving, in loose
“ and indefinite terms, the full extent of what you call
“ the rights of the people, to the people : that is not
“ our intent ; we think”—and, Gentlemen, many a
man may very honestly think it, but he must go about
the execution of his thoughts in a legal way, if he
does so think, if he means to reduce his thoughts into
practice—“ we think that Parliament is not adequate
“ to all the ends for which it is instituted as a body,
“ through which is to be spoken, as far as the consti-
“ tution requires, the will of the people ; but we do
“ not mean what you mean ; we mean to preserve the
“ forms of the constitution, which it is clear you do
“ not ; we mean,” says Lord John Russell, in a letter,
which will be read, “ to preserve the forms of the con-
“ stitution, and therefore must decline all correspond-
“ ence with you.”

Gentlemen, it happens—it belongs to societies of this nature, and I desire to be understood therefore, in stating it, only as stating a circumstance, which in its nature does belong to those societies, and which will happen—that it was thought necessary, for the great purpose of doing that which was eventually to be done, that a Society which had rejected co-operation with the Society for Constitutional Information, should still be kept, for the purposes of the Society for Constitutional Information, in fact and effect corresponding and connected with it. Accordingly you will find that this Society of the Friends of the People, rejecting upon principle the plan which they thought abandoned the forms of the constitution, that this Society retained, in its own bosom, according to the account I have of it,

many members, who happened to belong to the other Society, and the work of both societies went on by the same instruments: they were thus therefore connected in fact, though they did not choose as a body to have one Society in connexion with the other.

Gentlemen, having stated that, you will allow me now to mention, though it is a little out of date, but it also connects itself with and illustrates the last observations I made, that the Society at Sheffield, which had connected itself by affiliation with the Society for Constitutional Information, and you will also find with the London Corresponding Society, had received, about the 24th of May, intelligence from the Society of the Friends of the People, which stated to them very correctly what their objects were, the means by which they meant to accomplish them, and the attention which they meant to pay to the forms of the constitution. You will now see what the Society for Constitutional Information understood to be the objects of the Sheffield Society, and what the Sheffield Society understood to be the objects of the Society for Constitutional Information. The Sheffield Society (though I do not know that they kept their word) distinctly disavowed, in a letter of the 26th of May, to the Constitutional Society, having any thing more to do with that Society—called the Friends of the People—which meant to preserve the forms of the constitution; represented that they had totally misunderstood them, and would have nothing more to do with them, but to the extent, to which the Society for Constitutional Information permitted.

You will find in a letter from Sheffield, of the 26th

May, and this corrected by Mr. Tooke, that they thank the Constitutional Society for accepting their members. They then state that they had increased to two thousand four hundred.—“ On Saturday last, the
“ 19th instant, we received a packet of printed addresses, resolutions, &c. from the Society (Free
“ Masons’ Tavern), which on mature consideration we
“ find ourselves not so well reconciled to the ideas they
“ convey to us as we could wish, if they had appeared
“ in a different point of view; nor do they afford us
“ such a flattering prospect, as we were apprehensive
“ might be expected from an association of so respectable a body, under the high denomination of the
“ Friends of the People. In our opinion, their answer
“ of the 12th instant to your letter of the 27th ultimo
“ is no ways compatible with that appellation; from
“ the known respectability of many names which appear amongst them, we had entertained great hopes
“ of their real use ”—mark the words, Gentlemen—
“ in obtaining a thorough reform”—now mind what that reform is—“ in obtaining a thorough reform upon
“ the principles of the rights of man,”—that is, a representative government, rejecting the King, and rejecting every other part of the constitution of this country, except so far as it was consistent (indeed it is not consistent with any part of it) with the principles of the rights of man—“ which can never be accomplished until every man enjoys his lawful and just
“ privileges.

“ Previous to the reception of this packet, we did
“ communicate to them by letter the pleasing hope

“ it reflected on us on looking forward, viewing such
 “ respectable characters signalising themselves in sup-
 “ port of the people’s rights, agreeable to the above
 “ principles, and the denomination by which they have
 “ entitled themselves, &c. In due course they would
 “ receive our letter last Thursday seven-night; and in
 “ consequence, we apprehend the packet was forwarded
 “ to us on the same day, but without any written
 “ communication. We shall not attempt any further
 “ communication with them, until we are favoured
 “ with your sentiments upon the subject, or until
 “ matters of doubt which are at present entertained be
 “ removed.” Then there is a note, which shows the
 necessity of this fostering care of the Constitutional
 Society; they say—“ Birmingham in particular claims
 “ all the assistance from established societies, which
 “ possibly can be administered.”

Having written to the Constitutional Society upon
 the 26th of May, they find it expedient, for the same
 purpose, to trouble their correspondents of the London
 Corresponding Society: “ We were favoured with your
 “ very affectionate letter of the 7th ultimo, and com-
 “ munication, in due course; and I am directed by
 “ this Society to inform you, that it is with infinite
 “ satisfaction they receive the information, that your
 “ firm and laudable endeavours are directed to that
 “ effectual and necessary purpose, of opening and en-
 “ lightening the public mind, and disseminating useful
 “ knowledge amongst the general mass of the people:
 “ by an orderly proceeding in a firm pursuit of truth
 “ and equity, there cannot be a doubt but that our

“ joint endeavours will in due time be crowned with
“ success.

“ As brothers and fellow-labourers we congratulate
“ you on your rapid progress of useful and real know-
“ ledge in the various parts of this nation, which
“ sufficiently indicates that the time cannot be far
“ distant when truth will be more predominant, equity
“ more generally administered, and sound wisdom
“ more universally sought after. When pride, ambi-
“ tion, and ignorance give place to these virtues, when
“ oppression ceases and charity abounds, when men in
“ principle and practice verify the necessity and advan-
“ tage of doing to others as they wish to be done by;
“ then, and not till then, can any people or nation be
“ said to be happy.

“ We have herewith enclosed our rules, &c. Should
“ have written you much sooner, but on account of a
“ disappointment in the printing of our articles, &c.

“ Our numbers continue to increase, both here, and
“ in the adjacent towns and villages; a general con-
“ currence prevails, as to the necessity of the business
“ and the measures adopted by this Society, for ob-
“ taining our object. It will be of great importance
“ to the cause we are engaged in, that a more frequent
“ communication be maintained amongst all the similar
“ institutions; for which reason we beg the favour of
“ your correspondence at every convenient opportunity,
“ which will be highly obliging to this Society, who
“ in return pledge themselves to observe the same
“ rule.”

Gentlemen, having stated to you now what it was

that the Society of the Friends of the People discovered to be the object of the Constitutional Society, and I agree with them in thinking their discovery upon that subject was accurate and right, you will find it necessary to go back, and to proceed in the order of time to the 7th of April. Mr. Hardy sent from the London Corresponding Society a copy of their resolutions to the Society for Constitutional Information, which was established at Manchester, and desired also to have correspondence with them, as they were all engaged in one common cause; that Manchester Society, you will recollect, which hoped that the other great benefits which Mr. Paine had stated, would be carried into effect.

He says, "We began this Society about ten weeks ago: it is composed chiefly of tradesmen and shopkeepers. The enclosed will inform you of the principles we set out upon.—When we first associated, we flattered ourselves that no other societies in the nation were formed upon the same principles—but in two or three weeks afterwards we were most agreeably informed of our brethren at Sheffield having taken the lead in so glorious a cause—we immediately wrote to them, and were answered without delay, expressing a wish to unite with us, for promoting the ends we have in view, and we are assured of success, by persevering prudently, and with unanimity."

Upon the 18th of April 1792, in furtherance of this plan, you will find Mr. Hardy writes a letter to the president of the Society in the Borough.—Now

that is the Society, the principles of which I have so distinctly stated before, as leading to *representative government*, as the only security for liberty in the country.—It appears that their declarations had also been sent to the London Corresponding Society; and Mr. Hardy, upon the 18th of April 1792, says, “I am ordered by the London Corresponding Society, “to send a copy of their resolutions to the Society that “meets at the Three Tuns Tavern, in the Borough, “established on purpose for restoring the rights of “election, or, in other words, to obtain an equal representation of the people of this nation in Parliament.”

Now they had avowed, and avowed in their declaration, that their object of a representation of the people in Parliament was precisely that more extended one in its principle, which obtained at the time of the Commonwealth in England—namely, a representation of the people in Parliament, termed a Parliament, but without King or Lords, a *representative government*—“We should be very happy to “enter into a correspondence with your Society—as “we are all engaged in the same grand and important “cause, there is an absolute necessity for us to unite “together, and communicate with each other, that “our sentiments and determinations may centre in “one point, viz. to have the rights of man re-established, especially in this nation; but our views of “the rights of man are not confined solely to this “small island, but are extended to the whole human “race—black or white, high or low, rich or poor.

“ I give you the following as my own opinion—perhaps
“ you may think it a singular sentiment.”—and then
an opinion is given, which it is my duty to state,
though I do not understand it—“ that the King and
“ the nobles as much as the peasant and ignoble, are
“ equally deprived of their rights—Our Society meets
“ every Monday night.”

Gentlemen, there is an answer to this, from a person
of the name, I think, of Favell, who is chairman of
the Friends of the people in Southwark : he says—
“ I duly received your letter, containing the resolu-
“ tions of the London Corresponding Society—which
“ I have communicated to our Society in the Borough
“ —and I am directed to return them the thanks of
“ that Society, and to assure them they shall cordially
“ unite with them, and all similar societies throughout
“ the kingdom, in endeavouring to effect those great
“ objects for which they are associated—namely, to
“ engage the attention of their fellow-citizens to
“ examine the general abuses of government, and to
“ exercise their deliberative wisdom in a calm but in-
“ trepid manner in applying those remedies” —This is
in April ; and in August they expressly tell you, that
there was to be no remedy from Parliament—“ In
“ applying those remedies which the country at large
“ may ultimately require-- and they sincerely agree
“ with you in hoping that the long-neglected rights of
“ man will be restored, not only in this country, but in
“ every part of the globe where man may dwell.—We
“ shall very soon transmit you a copy of our declara-
“ tion, and hope for your further correspondence.”

A letter and resolutions from the Revolution and Constitutional Societies at Norwich, dated 26th of April 1792, were read at the meeting of the Society for Constitutional Information, on the 4th of May following: they distinctly state—that Mr. Paine's books were to be the medium, through which the prejudices that had grown up under the British government were to be got rid of, and the Constitutional Society return them their thanks in these words—
“ This Society receives the above communication with
“ the most heartfelt satisfaction, and desires earnestly
“ to concur and co-operate with those Societies in their
“ laudable objects; that the secretary do inform them
“ of the same, and that this Society has unanimously
“ elected the twelve members of the Norwich Societies
“ to be associated members of this Society.”

Upon the 11th of May 1792, the Constitutional Society resolved, that there should be a communication from that Society with the Society of the Friends of the Constitution at Paris, known by the name of Jacobins: they send an address to them, which is in these words—“ Brothers and fellow-citizens of the
“ world—

“ The cordial and affectionate reception with which
“ you have honoured our worthy countrymen, Mr.
“ Thomas Cooper, and Mr. James Watt, members of the
“ Society of Manchester, and united with our Society,
“ has been communicated to us by the correspondence
“ of those gentlemen.

“ In offering you our congratulations on the glo-
“ rious revolution which your nation has accomplished,
“ we speak a language which only sincerity can dictate.

“ The formality of courts affords no example to
“ us : to do our thoughts justice, we give to the heart
“ the liberty it delights in, and hail you as brothers.

“ It is not among the least of the revolutions which
“ time is unfolding to an astonished world, that two
“ nations, nursed by some wretched craft in reciprocal
“ hatred should so suddenly break their common odious
“ chain, and rush into amity.

“ The principle that can produce such an effect, is
“ the offspring of no earthly court ; and whilst it ex-
“ hibits to us the expensive iniquity of former politics,
“ it enables us with bold felicity to say we have done
“ with them.

“ In contemplating the political condition of na-
“ tions, we cannot conceive a more diabolical system of
“ government than that which has been generally
“ practised over the world, to feed the avarice, and
“ gratify the wickedness of ambition ; the fraternity
“ of the human race has been destroyed, as if the
“ several nations of the earth had been created by rival
“ gods—man has not considered man as the work of
“ one Creator.

“ The political institutions, under which he has
“ lived, have been counter to whatever religion he pro-
“ fessed.

“ Instead of that universal benevolence, which the
“ morality of every known religion declares, he has
“ been politically bred to consider his species as his
“ natural enemy, and to describe virtues and vices by
“ a geographical chart.

“ The principles we now declare are not peculiar to
“ the Society that addresses you ; they are extending

“ themselves with accumulating force through every
“ part of our country, and derive strength from an
“ union of causes, which no other principles admit.

“ The religious friend of man, of every denomina-
“ tion, records them as his own ; they animate the lover
“ of rational liberty, and they cherish the heart of the
“ poor, now bending under an oppression of taxes, by
“ a prospect of relief.

“ We have against us only that same enemy, which
“ is the enemy of justice in all countries, a herd of
“ courtiers fattening on the spoil of the public.

“ It would have given an additional triumph to our
“ congratulations, if the equal rights of man, which
“ are the foundation of your declaration of rights, had
“ been recognized by the governments around you
“ and tranquillity established in all ; but, if despotisms
“ be still reserved to exhibit, by conspiracy and com-
“ bination, a further example of infamy to future ages,
“ that Power that disposes of events, best knows the
“ means of making that example finally beneficial to
“ his creatures,

“ We have beheld your peaceable principles in-
“ sulted by despotic ignorance ; we have seen the right
“ hand of fellowship, which you hold out to the world,
“ rejected by those who riot on its plunder ; we now
“ behold you a nation provoked into defence, *and we*
“ *can see no mode of defence equal to that of establish-*
“ *ing the general freedom of Europe.*

“ In this best of causes we wish you success ; our
“ hearts go with you ; and in saying this we believe
“ we utter the voice of millions.”

Gentlemen, this address was signed by the chairman of the Constitutional Society, and transmitted to Mr. Watt, at Paris ; and, upon the 28th of May 1792, was ordered to be published.

After this, the principles of Mr. Paine, which, you observe, contain the doctrines that I have been stating to you, were carried further in a third book (I mean in that book called *The Address to the Addressers*, which I shall also be able to give in evidence to you) : Mr. Paine having there gone the length of asserting the folly, absurdity, and wickedness of the Government, under which we live—not only of asserting the incompetency of Government, as it is constituted, to change itself, but having asserted that a conventional representation of the people, in that sense in which we speak of it, must do this work, he proceeds to the extent of stating the plan and form of an organization of that sort, upon which the convention was to be framed.

Gentlemen, it was impossible not to apply to the justice of the law, against the attack made upon our Government by the person who went to the extent I am now stating, with the approbation, published over and over again, of these societies, who, in their corporate character, if I may so speak, could not be prosecuted for doing it—it became necessary to ask a Jury of this country, whether these doctrines were to be tolerated—what is the consequence of that ? It is, that these societies immediately enter into subscriptions for the support of Mr. Paine, and they consider themselves as engaged in propagating his works in that

way, in which no work ever was propagated—to the intent to produce that convention, without which the nation, in no organization of its government, could be said, according to them, to exist in a state of freedom as a nation.

Gentlemen, you will not be surprised, if it also appears that, in going on progressively to the execution of the mischief that was intended, they became more mischievous; and you will find members parting from the Society, expressly telling them, that they meant to destroy the government of the country; that they cannot, therefore, stay among them; and to which members, as far as appears from any information that I have had, they did not condescend to explain themselves—to say, No, you have mistaken our object—this is not what we mean; but they leave them unanswered, and go on to execute the purposes they were about.

Having come to those resolutions in order to support Mr. Paine in these prosecutions, they publish the resolutions, they publish the books of Mr. Paine, they publish these resolutions in the various newspapers (the editors of these newspapers insuring, if I may so say, themselves against the hazards of the law, some for more, some for less, and they risk the hazard of propagating the doctrines, provided the consideration paid is ample enough, as a premium for the risk), and then these publications are sent down to the country to various places, in hundreds, and thousands—I am sorry to say, to persons of all professions to distribute—I am sorry to say, to some of the most sacred pro-

fessions, whose names will appear to you when they come to be read—and this mode of propagating these doctrines is adapted to the utter impossibility of detection, and for the very purpose of having that effect—to make the law of the country unequal to the mischief, which it was to meet.

At this time a proclamation was issued by the executive government of the country, in order to restrain these publications; and both the societies, you will find, cloaking themselves under the words “a full and “fair representation of the people,” which words they have never condescended to explain, which words never do exist in any text of any writing of theirs, as I can find, with the mention of a King, or other house of legislature;—they vilify the proclamation, and make the very means the executive government took to suppress the mischief, a mean by which they should spread the effect of the mischief more widely and diffusely than otherwise they could have done.

Upon the 24th of May 1792, there is a letter sent from Mr. Hardy, I believe not in his own hand-writing, but I believe in the hand-writing of Mr. Vaughan, whom I before named to you, in which he states, that, by the direction of the London Corresponding Society, he had the honour of enclosing to them a copy of their address and regulations, which he requests they will communicate to the Constitutional Society. The thanks of the Society were given to them for this; and that is a publication more guarded than another you will find published upon the 6th of August 1792.

After stating their constitution, which I before men-

tioned to you, it says—" But, as Providence has furnished men in every station with faculties necessary for judging of what concerns themselves, shall we, the multitude, suffer a few, with no better right than ourselves, to usurp the power of governing us without control? Surely not: let us rather unite in one common cause to cast away our bondage, being assured, that in so doing we are protected by a jury of our countrymen, while we are discharging a duty to ourselves, to our country, and to mankind."

Gentlemen, you will find from a paper of the 6th of August, that that, which they supposed was to meet with protection from a jury of the country, was a combination to reform the government of the country by means—other than application to Parliament—which binds together, with the King, as the great political body of the country, the whole system, under which we live.

Gentlemen, the London Corresponding Society, as to the King's proclamation, followed the example of the Constitutional Society, and on the 31st May 1792, in a paper that will be read to you, they vilify the proclamation; and this paper having been communicated by the London Corresponding Society to the Constitutional Society—they, aware of the nature of it, order, that that paper should be published in such newspapers as *will* receive the advertisements of this Society.—They were pretty well aware that they were of such a nature as made it somewhat hazardous to publish them.

You will find a letter, dated the 14th of June 1792,

from certain persons styling themselves the Editors of the Patriot (who they are I am not able to state to you, but who, for the purposes of these societies, thought it necessary to conceal their names), in which they desire the Corresponding Society to take an opportunity of enlightening the public mind by publications, by advertisements, by circulating those papers in villages to country farmers, desiring, as I stated, to conceal their name, but requesting that the papers might be sent to a person, who holds an important situation in a subsequent part of this business—a Mr. Gale, a bookseller, at Sheffield.

Gentlemen, there will be laid before you various parts of the proceedings of the Constitutional Society, which relate to Mr. Paine, which I shall now pass over, except for the purpose of calling your attention to another publication of his upon the 6th of June 1792, and which was addressed to Mr. Dundas; you will likewise find that that book, which will be given you in evidence, distinctly disavows all hereditary government; all monarchy, under whatever qualifications, and then, for the purpose of circulating this doctrine, as they had before circulated the doctrines in other works of this gentleman, they order, “that
“ twelve thousand copies of that letter shall be printed
“ for the Society, for the purpose of being transmitted
“ to our correspondents throughout Great Britain, and
“ that a committee be appointed to direct the same.”

Gentlemen, I pass on now to the 6th of August 1792; at which time there appears to me to have been an extremely important transaction in the London

Corresponding Society ; it is the propagation of an address of that date, which first developes, as it seems to me, though in somewhat of covert language, the determination of these societies to work what they call a reform without any communication whatever with that Parliament, which they held to be incompetent to bring about the business.

You will find that, upon the 8th of August, Mr. Hardy wrote a letter to Mr. Tooke ; that he sent him a proof copy of this address ; that he hoped it would merit his attention, and his approbation ; that he should be exceedingly happy to be favoured with his opinion of it before it was printed.

The address, after stating what they considered as the grievances of the country, states this—"Such being
" the forlorn situation of three-fourths of the nation,
" how are Britons to obtain information and redress ?
" Will the Court, will Ministry afford either ? Will
" Parliament grant them ? Will the nobles or the
" clergy ease the people's sufferings ? No. Experi-
" ence tells us, and proclamations confirm it, that the
" interest and the intention of power are combined to
" keep the nation in torpid ignorance."

It then states the only resource to be in these societies ; it then states various detailed reasons, which you will hear, and then proceeds to this effect :

" Numerous other reforms would undoubtedly take
" place, even in the first session of Parliament so elected,
" dependant only on their electors the people ; untorn
" therefore by faction, undivided by party, uncorrupted
" by Ministry, and uninfluenced but by the public

“ good. Every transaction would tend to reform, and
 “ a strict economy, its natural consequence, might soon
 “ enable us to reduce our taxes ; and by the integrity
 “ of Parliament, that reduction would light upon such
 “ objects as best might relieve the poor ; this to the
 “ people would prove an advantageous and a novel
 “ session, and to an honest Parliament not a tire-
 “ some one.

“ Therefore, Britons, friends, and fellow-citizens,
 “ with hand and heart unite, claim what is your right,
 “ persevere and be free, for who shall dare withstand
 “ our just demands ? Oppression, already trembling at
 “ the voice of individuals, will shrink away and dis-
 “ appear for ever, when the nation united shall assert
 “ its privileges and demand their restoration.”

Gentlemen, the address you will find was circulated
 with infinite industry to every Corresponding Society
 in the kingdom, conveyed through every possible
 channel, the doctrine adopted by all the affiliating
 societies ; and the plan, which they went upon from
 this 6th of August 1792, appears to have been a plan
 to redress themselves by their own power, and by
 their own strength, and not by application to that Par-
 liament, which alone can act in legislation : it seems
 to me to be impossible that you can mistake what is
 meant by this paper, if you will give your more par-
 ticular attention to a paper which was received from a
 Society at Stockport, and found in the possession of
 Mr. Hardy upon the 27th of November 1792 ; this,
 after adverting to those numerous grievances stated in
 the address of the 6th of August 1792, is to this effect :

“ In obedience to the wishes of the Society here, I
“ have the pleasure of acknowledging the honour of
“ your letter, and the packet, which the kindness of
“ our brothers of the London Corresponding Society
“ so opportunely presented us with.

“ It is doubly deserving our thanks, as it shows your
“ kindness, and as it will be useful in the formation
“ of our infant society; we stand much in need of
“ your experience in this particular, and we doubt not
“ of your best assistance; we are surrounded by a
“ majority, a formidable one indeed in power, abilities,
“ and numbers, but we are not dismayed.

“ We have carefully perused the addresses, and I am
“ to observe upon their contents in general, that the
“ sentiments hardly arise to that height which we
“ expect *from men sensible to their full claims to abso-*
“ *lute and uncontrollable liberty, i. e. unaccountable to*
“ *any power which they have not immediately consti-*
“ *tuted and appointed.*

“ These are our sentiments, whatever may be yours;
“ though, in the present state of political knowledge,
“ it may be prudent not to avow them openly. We
“ desire your sentiments on the means of accomplishing
“ that object, which we presume you have in view in
“ common with us; we think it expedient that we
“ should perfectly understand each other in the begin-
“ ning, lest the appearance of disunion might furnish
“ matter of triumph to our enemies; we observe one
“ expression,”—you will take notice that Mr. Hardy
at this time was a member both of the London Cor-
responding and the Constitutional Societies:—“ we

“ observe one expression, which says, ‘ numerous other
 “ reforms would take place,’ &c. &c. but we ask how
 “ is that Parliament to be chosen? *Can we expect it*
 “ *from the present order of things?* Would not all the
 “ evil be done away at once *by the people assembling in*
 “ *convention?* Does it appear probable that the odious
 “ laws, which we complain of, will be abolished any
 “ other way? Can the grievances arising from aris-
 “ tocracy be redressed while the ——— retains its
 “ present authority in the Legislature?” — whether
 this blank is to be filled up with Crown or the House
 of Lords is for you to judge,—retains its present
 authority in the Legislature? “ Is the universal right
 “ of conscience ever to be attained while the B——
 “ maintain their seats on the

“ Your thoughts on those important points, we
 “ most earnestly desire may be transmitted to us as
 “ soon as possible, not directed as the last,”—and this
 you will find often occurs: letters sent under a feigned
 direction; “ we fear it will excite suspicion.”

The Stockport Society say of the address of the
 6th of August 1792, sent to them, that they think it
 hardly amounts to sentiments such as theirs, namely,
 that they must have absolute and uncontrollable
 liberty, unaccountable to any power which they have
 not immediately constituted—that could not be the
 King and Parliament of Great Britain—they say, “ we
 “ presume you have the same view in common with
 “ us, and we desire to have your sentiments upon the
 “ means of accomplishing that object.” What object?
 The object of putting themselves in a situation of being

unaccountable to any power, which they themselves had not immediately constituted and appointed—how was that to be done?—was it to be done by Parliament? The address of the 6th of August had disavowed that it was to be done by Parliament. Is it to be done, while the other parts of the Legislature hold their situation in the Legislature? We presume you have the same object: tell us what you think upon this occasion. This was the occasion, upon which the address of the 6th of August ought to have been explained, if they meant to disavow that they had any such object; but what is the answer? The answer in effect is: That full and fair representation of the people, that we are aiming at, is that which is to be the mediate or immediate instrument of removing all the grievances we labour under, though prudence does not permit us to speak all we think upon the subject.

“ With infinite satisfaction the London Corresponding Society’s Committee perused your letter; they are happy to learn your steady determination, in spite of all obstacles, to pursue that sole means of political felicity, a perfect representation of the people.”

Now, what was the sole means of this political felicity—a perfect representation of the people?—Why, the formation of a power by the people, making themselves unaccountable to any other power, to any power but that which they had immediately themselves constituted, namely, an assembly by a convention of the people. Then, Why don’t they speak out? They say, “ With regard to our publications, our sentiments are expressed in as strong terms as prudence will

“ permit, yet plain enough to convince the public,
“ that, while we expect every thing from an honest
“ and an annual Parliament,”—a body might exist
under the term Parliament in a commonwealth, as well
as under a King—“ nothing short of such a senate,
“ chosen by the whole nation, will satisfy us.

“ True generosity, the characteristic of this nation,
“ and of all unpervverted men throughout the globe,
“ calling upon us to countenance at this juncture the
“ arduous struggle of the French nation against des-
“ potism and aristocracy, those foes to the human race,
“ we have resolved upon addressing the French Na-
“ tional Convention.” You will permit me to observe,
this was upon the 11th of October 1792: the King of
France was deposed in effect upon the 10th of August
1792. This passage, in the transactions of this Society,
appears to me to be peculiarly worthy your attention.
“ Without entering into the probable effects of such a
“ measure, effects, which your Society will not fail to
“ discover, we invite you to join us; and to that end,
“ herewith you have a copy of our intended address:
“ if you approve the idea, and will concur in sending
“ it, be pleased to return us without delay, a copy
“ signed by your president; we will then associate
“ your body with ours, and with some others, who
“ have already assented to the measure: if, on the
“ contrary, you disapprove that mark of zeal towards
“ the only nation that has hitherto undertaken to re-
“ store to mankind its just rights, please to communi-
“ cate to us your objections.” This was upon the 11th
of October 1792: upon the 6th of October 1792, Mr.

Barlow (whose name occurs before with respect to his publication relative to the privileged orders) writes a letter to the Society for Constitutional Information, accompanied with a book, called "Advice to the National Convention of France;" and you will be pleased to observe that Mr. Barlow, and a Mr. Frost, afterwards, in the month of November, were sent with an address from the Constitutional Society to Paris, as their delegates for that purpose. The letter of Mr. Barlow is in these words :

" I have lately published a small treatise, under the
" title of ' A Letter to the National Convention of
" France, on the Defects of the Constitution of 1791,
" and the Extent of the Amendments which ought to
" be applied : ' although the observations contained in
" this letter are more particularly applicable to the
" French nation in the present crisis of its government,
" yet, as the true principles of society are every where
" the same, their examination cannot be unseasonable
" in any nation, or at any time ; believing, therefore,
" that the subject of this treatise will not be thought
" foreign to the great object of your association, I pre-
" sent a copy of it to you with the same confidence as
" I have done to the National Convention, and to the
" Constitutional Society at London, a confidence aris-
" ing from the full persuasion that the work is founded
" in truth and reason. I take the liberty at the same
" time to send you a copy of another publication, en-
" titled ' Advice to Privileged Orders.' The present
" disposition in Europe towards a general revolution
" in the principles of government is founded in the

“ current of opinion, too powerful to be resisted, as
 “ well as too sacred to be treated with neglect; and it
 “ is the duty of every individual to assist, not only in
 “ removing the obstructions that are found in the way
 “ of this revolution, but in ascertaining, with as much
 “ precision as possible, the nature of the object to be
 “ aimed at, and the consequence to be expected from
 “ the attainment: it is above all things to be desired,
 “ that the convictions to be acquired from national
 “ discussion, should precede and preclude those which
 “ must result from physical exertion.”

Now, you will give me leave to state to you what
 the doctrine is in this book, for which the Society for
 Constitutional Information, Mr. Hardy then a member
 of it, thank Mr. Barlow, make him an honorary mem-
 ber, and afterwards depute him to the National Con-
 vention of France.

Gentlemen, the doctrine, I can explain it to you
 generally, without troubling you by reading particular
 passages, amounts to this: Mr. Barlow, after stating
 the principles of equal active citizenship, which found
 their way into the constitution of France in 1792, and
 which constitution had made the King a part of the
 system of that government, informs them of the
 glorious victory of the 10th of August, as the papers,
 which I have to adduce presently, represent it; that it
 had accomplished finally the effect of those principles,
 which he understands to be the principles of those to
 whom he was writing; that it is impossible they should
 consist with this sentiment, *that a King could be re-*
tained in a government; that the constitution was at

variance with itself; that those who made it had not discovered that, or, having discovered it, they thought the time was not yet come, when they could reduce the constitution to that pure government which was the object of these societies; he then tells you, that in government, the maxim being *that a King can do no wrong*, the maxim ought to be, *that he can do no good*.

This gentleman, so stating his doctrine as an explanation of the principles upon which they are acting, is voted by them an honorary member, and afterwards sent to Paris with the papers, which I am about to read to you: a great deal of evidence will be laid before you, to prove that they had beat up all the country for letters and addresses to express the same principles to France, not on account of the cause of France, but of the cause of England, and with a view to introduce the same effects into England. I shall state but two of these addresses, because they seem to contain the effect of all the rest that were actually sent.

The London Corresponding Society first of all communicated to the Constitutional Society, in the month of October 1792, their intention of sending an address to France: the Constitutional Society fully approve the purpose: they see the end that it aims at, and they determine not to concur in the same address, but to send a separate address; and in their paper you may see the principles of both to be principles, which were expressed for the very purpose of aiding the co-operation of the societies in excluding the King from the government of the country, and of raising a republic. This is the letter:

“ Frenchmen, while foreign robbers are ravaging
“ your territories under the specious pretext of justice,
“ cruelty and desolation leading on their van, perfidy
“ and treachery bringing up the rear, yet mercy and
“ friendship impudently held forth to the world as the
“ sole motive of their incursions ; the oppressed part of
“ mankind”—that is, Great Britain—“ forgetting for
“ a while their own sufferings, feel only for yours, and
“ with an anxious eye watch the event, fervently sup-
“ plicating the Almighty Ruler of the Universe to be
“ favourable to your cause, so intimately blended with
“ their own”—that cause which upon the 10th of
August had excluded the King from the government of
the country—“ frowned upon by an oppressive system
“ of control, whose gradual but continued encroach-
“ ments have deprived this nation of nearly all its
“ boasted liberty, and brought us almost to that abject
“ state of slavery, from which you have so emerged ;
“ five thousand British citizens indignant manfully
“ step forth to rescue their country from the oppro-
“ brium brought upon it by the supine conduct of
“ those in power ; they conceive it to be the duty of
“ Britons to countenance and assist, to the utmost of
“ their power, the champions of human happiness, and
“ to swear to a nation, proceeding on the plan you
“ have adopted, an inviolable friendship. Sacred from
“ this day be that friendship between us, and may
“ vengeance, to the utmost, overtake the man who
“ hereafter shall attempt to cause a rupture !

“ Though we appear so few at present, be assured,
“ Frenchmen, that our number increases daily : it is

“ true, that the stern uplifted arm of authority at pre-
“ sent keeps back the timid; that busily circulated
“ impostures hourly mislead the credulous; and that
“ court intimacy with avowed French traitors has
“ some effect on the unwary and on the ambitious;
“ but with certainty we can inform you, friends and
“ freemen, that information makes a rapid progress
“ among us; curiosity has taken possession of the
“ public mind; the conjoint reign of ignorance and
“ despotism passes away; men now ask each other,
“ what is freedom? where are our rights? French-
“ men, you are already free, and Britons are preparing
“ to become so; casting far from us the criminal pre-
“ judices artfully inculcated by evil-minded men and
“ wily courtiers, we, instead of natural enemies, at
“ length discover in Frenchmen our fellow-citizens of
“ the world, and our brethren by the same heavenly
“ Father, who created us for the purpose of loving
“ and mutually assisting each other, but not to hate,
“ and to be ever ready to cut each other’s throats at
“ the command of weak and ambitious Kings, and
“ corrupt Ministers; seeking our real enemies, we find
“ them in our bosoms, we feel ourselves inwardly torn
“ by and ever the victim of a restless and all-consum-
“ ing aristocracy, hitherto the bane of every nation
“ under the sun: wisely have you acted in expelling
“ it from France.

“ Warm as our wishes are for your success, eager
“ as we are to behold freedom triumph, and man
“ every where restored to the enjoyment of his just

“rights, a sense of our duty, as orderly citizens,
“forbids our flying in arms to your assistance: our
“Government has pledged the national faith to remain
“neutral in a struggle of liberty against despotism.
“Britons remain neutral!—O shame! but we have
“trusted our King with discretionary powers; we
“therefore must obey: our hands are bound, but our
“hearts are free, and they are with you.

“Let German despots act as they please, we shall
“rejoice at their fall; compassionating however their
“enslaved subjects, we hope this tyranny of their
“masters will prove the means of reinstating in the
“full enjoyment of their rights and liberties millions
“of our fellow-creatures.

“With unconcern therefore we view the Elector
“of Hanover”—that is, the King of Great Britain—
“join his troops to traitors and robbers; but the King
“of Great Britain will do well to remember, that this
“country is not Hanover. Should he forget this dis-
“tinction, we will not.

“While you enjoy the envied glory of being the
“unaided defenders of freedom, we fondly anticipate
“in idea the numerous blessings mankind will enjoy;
“if you succeed, as we ardently wish, the triple alli-
“ance (not of *crowns*, but) of the *people of America*,
“*France* and *Britain*, will give freedom to Europe,
“and peace to the whole world. Dear friends, you
“combat for the advantage of the human race; how
“well purchased will be, though at the expense of
“much blood, the glorious unprecedented privilege of

“ saying,—Mankind is free : tyrants and tyranny are
“ no more : peace reigns on the earth, and this is the
“ work of Frenchmen.”

Gentlemen, this address, which was sent by that Society, was followed by another from the Society for Constitutional Information, upon the 9th of November, 1792, which seems likewise to state their principles.

“ Servants of a sovereign people, and benefactors of
“ mankind—

“ We rejoice that your revolution has arrived at that
“ point of perfection which will permit us to address
“ you by this title”—Servants of a sovereign people,
that is not the character of a British government ; this
is the principle of the Southwark resolutions—“ it is
“ the *only one* which can accord with the character of
“ true legislators. Every successive epoch in your
“ affairs has added something to the triumphs of li-
“ berty, and *the glorious victory of the 10th of August*
“ has finally prepared the way for a constitution, which,
“ we trust, you will establish on the basis of reason
“ and nature.” Mr. Barlow had in effect said (and they
had made him an honorary member, and had trans-
mitted their address by his hands), that no constitution
could reform upon the basis of reason and nature, that
left a King in the government, however the govern-
ment was modified.

They proceed thus in their address—“ Considering
“ the mass of delusion, accumulated on mankind to
“ obscure their understandings, you cannot be asto-
“ nished at the opposition that you may have met both
“ from tyrants and from slaves ; the instrument used

“ against you by each of these classes is the same ;
 “ for, in the genealogy of human miseries, ignorance
 “ is at once the parent of oppression and the child of
 “ submission.

“ The events of every day are proving, that your
 “ cause is cherished by the people in all your conti-
 “ nental vicinity ; that a majority of each of those
 “ nations are your real friends, whose governments
 “ have tutored them into apparent foes ; and that they
 “ only wait to be delivered by your arms from the
 “ dreadful necessity of fighting against them.

“ The condition of Englishmen is less to be de-
 “ plored ; here the hand of oppression has not yet
 “ ventured completely to ravish the pen from us, nor
 “ openly to point the sword at you.”

They then go on to say :—“ From bosoms burning
 “ with ardour in your cause, we tender you our warm-
 “ est wishes for the full extent of its progress and
 “ success ; it is indeed a sacred cause ; we cherish it
 “ as the pledge of your happiness, our natural and
 “ nearest friends, and we rely upon it as the bond of
 “ fraternal union to the human race, in which union
 “ our own nation will surely be one of the first to concur.

“ Our government has still the power and perhaps
 “ the inclination to employ hirelings to contradict us ;
 “ but it is our real opinion, that we now speak the sen-
 “ timents of a great majority of the English nation.
 “ The people here are wearied with imposture, and
 “ worn out with war ; they have learned to reflect that
 “ both the one and the other are the offspring of un-
 “ natural combinations in society, as relative to systems

“ of government, not the result of the natural temper
“ of nations as relative to each other's happiness.

“ Go on, legislators, in the work of human happi-
“ ness; the benefit will in part be ours, but the glory
“ shall be all your own; it is the reward of your
“ perseverance, it is the prize of virtue, the sparks of
“ liberty preserved in England for ages, like the corus-
“ cations of the northern Aurora, serving but to show
“ the darkness in the rest of Europe. The lustre of
“ the American republic, like an effulgent morn, arose
“ with increasing vigour, but still too distant to en-
“ lighten our hemisphere, till the splendour of the
“ French revolution burst forth upon the nations in
“ the full fervour of a meridian sun, and displayed”—
attend to the words—“ in the midst of the European
“ world the practical result of principles which philo-
“ sophy had sought in the shade of speculation, and
“ which experience must every where confirm,”—the
principles of Mr. Paine, who went over to form one
in that Convention, the existence of which shows the
practical result of those principles, which philosophy
had sought, and which experience was to confirm—
“ it dispels the clouds of prejudice from all people,
“ reveals the secrets of all despotism, and creates a new
“ character in man.

“ In this career of improvement your example will
“ be soon followed; for nations, rising from their le-
“ thargy, will reclaim the rights of man with a voice
“ which man cannot resist.”

Gentlemen, it will not be matter of surprise to you,
that letters, such as these to the National Convention

in France, should have produced opinions in that country respecting the attachment of individuals in this to their government. It is not therefore very extraordinary, that, upon the 19th of November 1792, that famous decree passed of fraternization with all subjects in all countries, who chose to resist the governments under which they live; but I think you will be surprised that any man could receive in this country, and read with approbation, and enter upon their proceedings the answers, which these addresses brought from France, and which were read in the presence of the Prisoner at the bar, without being astonished that they did not at least take some means to reject from them the imputation that they meant, in their own country, all that these answers suppose they mean, and all that these answers promise to assist them in accomplishing.

You will find, upon the 14th of December 1792, that a letter from the Society of the Friends of Liberty and Equality, sitting at Laon, the head of the department of the Aisne, to the patriotic society of London, called the Society for Constitutional Information, is read, and referred to their Committee of Correspondence: it is in these words:—
“ The Society of the Friends of Liberty and Equality
“ sitting at Laon, the head of the department of the
“ Aisne, to the Patriotic Society of London, called the
“ Society for Constitutional Information.—Generous
“ republicans, the philanthropic gift that you have
“ presented to the warriors of France ”—they had sent some shoes, and were at that time thinking of giving

them some arms—" announces with energy the great
" interest that you take in the sacred cause which they
" are defending. Accept the thanks of a Society, that
" does honour to itself in esteeming you. The time
" perhaps is not far distant, when the soldiers of our
" liberty shall be able to testify their gratitude to you :
" then their arms, their blood itself, shall be at the
" service of all your fellow-citizens, who, like you,
" acknowledge no rights but the rights of man ; then
" France and England shall form together a treaty of
" union as lasting as the course of the Seine and the
" Thames ; then there, as here, there shall exist no
" other reign but that of liberty, equality, and friend-
" ship. May this day of felicity and glory soon shine
" upon the horizon of two nations formed to admire
" each other ! "

Gentlemen, they then enter upon the minutes of the Society another letter, from another fraternizing society,—whether one of those societies which they speak of in the beginning of 1792, as affiliating societies in France, or not, I do not know ;—whether they had been assisting to reduce their principles into practice I do not know ; but it is clear that the affiliating society in France offered them their assistance for that purpose. Accordingly you will find that the Society of the Friends of Liberty and Equality, established at Macon, write to the Constitutional Society at London, adverting to what they had said in their address to the nation about the glorious victory of the 10th August 1792, the circumstances of which shall be described to you in evidence, because you will find that some of the

persons who are charged in this Indictment (and whose conduct in this conspiracy will, upon the clearest principles of law, affect all of them) were then present in Paris. They write thus—"Yes, citizens, our brethren, " and friends, the 10th of August 1792, shall be dis-
 " tinguished"—what, in the annals of France?—"dis-
 " tinguished in the annals *of the world*, as the day of
 " the triumph of liberty. Our first revolution"—(Mr. Joel Barlow or Mr. Paine, one should have thought, had wrote it).—"our first revolution did but show to
 " us the salutary principles of the imprescriptible
 " rights of man: all, except the faithless and the
 " enemies of humanity, adopted them with enthusiasm.
 " It was then that we formed ourselves into a Society,
 " in order the better to impress them upon ourselves,
 " and afterwards to teach them to our fellow-citizens.

" Our first constitution had consecrated them, but
 " had not always taken them for its base: the dominion
 " of the passions, the force of habit, the impression of
 " prejudices, and the power of the intrigues employed
 " in our Constituent Assembly, found the secret to
 " preserve sufficient authority to our tyrants, to extin-
 " guish at some time the sacred rights of nature, and
 " to re-establish despotism on its throne of iron.

" But royalty, thus preserved, was not content with
 " the victory secured to it by a set of men, the greatest
 " part of whom it had corrupted. It was impatient to
 " reap the fruits that it appeared to promise itself: but
 " its too great eagerness has hastened its ruin, and
 " secured the triumph of reason.

" The French, proud of their own existence, soon

“ perceived the fruit of their first legislature; became
“ sensible of the imperfections of their first laws, saw
“ that they made a surrender of the rights of liberty
“ and equality, which they had embraced; they roused
“ themselves anew to demand at length laws impartial
“ and humane.

“ From thence the necessary day of the 10th of
“ August 1792, from thence a second revolution, but
“ a revolution which is only the completion of the
“ first, which has received our vows and our oaths, and
“ which we will bless for ever, if it leads us, as we hope
“ it will, to the happiness of the nation, to the constant
“ maintenance of liberty and equality.

“ Let intriguers, fools, and tyrants, calumniate us;
“ we despise them too much to condescend to answer
“ them, and seek for their esteem.

“ That which flatters us is the interest that *you* take
“ in our labours: *your* attention has contributed to
“ the success of our arms. We desire your esteem,
“ we are proud of your approbation.

“ We smile at the expression of the sentiments that
“ you manifested to our representatives. We behold
“ a nation of brethren rouse itself to support the cause
“ of humanity; we behold the brave English adopt
“ our principles, become our friends: we say to each
“ other with pleasure, Soon will they become our
“ allies: and, uniting our efforts, we shall go on to
“ deliver the universe from the yoke of tyrants, to
“ restore the nations to reason and nature. That day
“ is not far distant, if we may rely on our own courage,
“ and the hope of your alliance. In the mean time,

“ receive our thanks, and correspond with brethren
 “ who set a high value on your esteem.”

Gentlemen, on the 17th of December 1792, the Popular and Republican Society of another department at the Mouth of the Rhone, wrote them this letter :
 “ The Popular and Republican Society of Apt, depart-
 “ ment of the Mouths of the Rhone, to the Popular
 “ Society sitting at London. Live free or die. Citizens,
 “ brethren, and friends, when two great nations, ac-
 “ quainted with their rights, approximated by their
 “ commercial connexions and their national situation,
 “ formed to live and to act in concert with each other,
 “ begin to form the glorious project of uniting
 “ themselves for the regeneration of the human race,
 “ one may then say with reason, that Kings are ripe
 “ and ready to fall. How glorious it will be for France
 “ and England to have formed alone a confederacy
 “ destructive of tyrants, and to have purchased at the
 “ price of their blood the liberty of Europe ; we may
 “ say more, of the whole universe ! Courage, brethren
 “ and friends ! It is for you to follow in the glorious
 “ and hazardous career of the revolution of the world ;
 “ can you any longer groan under the yoke of a
 “ government that has nothing of liberty but the name ?
 “ for, although your land was inhabited before ours by
 “ freemen, can you, without delusion, consider your
 “ government as such ? Will you content yourselves
 “ with a partial freedom ? Will the English be satis-
 “ fied with principles ? Will that bold nation, that
 “ has produced philosophers the most profound, and
 “ that first of all perceived the sparkling rays of

“ freedom, remain a spectatrix in so noble a cause ?
“ No, brethren and friends, no : you will soon lift your-
“ selves up against that perfidious Court of St. James’s,
“ whose infernal policy, like that which found its doom
“ in the Thuilleries, has made so many victims in our
“ two nations, and does disunite them perpetually to rule
“ over them. Your love for liberty has fixed your at-
“ tention upon the wants of our defenders ; your gene-
“ rosity towards them has a title to the acknowledg-
“ ment of the republic ; we are impatient to furnish
“ you the same advantages : the Popular Societies of
“ France desire ardently the epoch that shall permit
“ them to address their voice to the National Assembly
“ of Great Britain, and to offer to the soldiers of liberty
“ of your nation, arms, bayonets, and pikes.”

This is the private correspondence between the societies and the Society for Constitutional Information ; but some of the persons named in this Indictment were present at the scenes I am now going to state, at the bar of the National Convention in France ; others of them delivering these sentiments by their ambassador Mr. Barlow, whose principles you have seen, and Mr. Frost, of whom I must state it, because I shall prove it, that he has been convicted in this country of coming from that country with the doctrine of No King : they offer these addresses to the National Convention of France in terms, the substance of which I will state to you, as far as I understand it to be, and I believe it is an accurate translation.

“ Mr. Barlow and Mr. Frost, English citizens,
“ being admitted to the bar, one of them pronounced

“ the following address.”—Gentlemen, the actual fact of his pronouncing it will be given in evidence: the date is the 28th of November 1792, nine days after the decree of the National Convention, which had promised fraternal assistance to the subjects of any country, that found themselves oppressed by any of their casts and privileged orders.

“ Citizens of France, we are deputed from the Society for Constitutional Information in London, to present to you their congratulations on the triumphs of liberty. This Society had laboured long in the cause with little prospect of success previous to the commencement of your revolution; conceive then their exultations and gratitude when, by the astonishing efforts of your nation, they beheld the reign of reason acquiring an extension and solidity which promised to reward the labour of all good men, by securing the happiness of their fellow-creatures. Innumerable societies of a similar nature are now forming in every part of England, Scotland, and Ireland: they excite a spirit of universal inquiry into the complicated abuses of government, and the simple means of a reform. After the example which France has given, the science of revolutions will be rendered easy, and the progress of reason will be rapid. It would not be strange if, in a period far short of what we should venture to predict, addresses of felicitation should cross the seas to a *National Convention in England*. We are also commissioned to inform the Convention, that the Society which we represent has sent to the soldiers of liberty a patriotic

“ donation of a thousand pair of shoes, which are by
“ this time arrived at Calais ; and the Society will con-
“ tinue sending a thousand pair a week for at least six
“ weeks to come ; we only wish to know to whose care
“ they ought to be addressed.”

Why, Gentlemen, am I to be told then, that, in the month of November 1792, those who, in August 1792, had said they could apply with no effect to Parliament, had no idea of such a National Convention in England, as that National Convention in France which they were addressing, and from which they were expecting to receive addresses ? Am I to be told that they had no idea of such a convention, as should overturn the constitution of this country ? It is impossible to put such a construction upon such proceedings.

Gentlemen, you will likewise find that the President of the Convention thought it necessary to give an answer to this address. I will state the substance of it : it will be read in evidence ; therefore I shall not take up time in looking for it. The President, considering them as generous republicans (and well he might after what had passed), makes an address to them, expressing much the same sentiments as those in which they had addressed him, and then he concludes by saying—“ Without doubt the time approaches when we shall soon send congratulations to
“ *the National Convention of England.*”

Gentlemen, you will likewise find that the London Corresponding Society, and the Constitutional Society, endeavoured to excite persons in all parts of this kingdom to send these addresses ; that, in point of fact,

there are various other addresses sent, of similar import, at the instigation of these societies, and the intent of them, I think, cannot possibly be misunderstood; but take the intent of them to be what you will, let my Learned Friend tell you, as he will, that there as yet was no war between Great Britain and France, you will allow me to say that there is evidence of a distinct intent that there should be a National Convention in England, and that the French soldiers of liberty should assist what they would call the soldiers of our liberty, whether there should be a war between Great Britain and France, or not: and you will allow me to say, that, in that very month of November 1792, a passage occurs, in which France does in effect declare war against all nations that did not adopt her principles, and allow the people to put them into execution.

In a conspiracy, as widely extended as this is, I shall undoubtedly insist, before you and the Court, that the acts of individuals, and particularly the acts of persons sent to present addresses to a foreign country—that what they do in reference to these acts is evidence against all of them; and likewise that letters, which the persons write relative to the same addresses, are evidence against each of them, whether written by the particular individual or no, as being in the prosecution of the same purpose. Upon the 20th of September 1792, Mr. Frost, who was then at Paris, states his notions in a letter to Mr. Tooke, of the real effect of this transaction of the 10th of August 1792, about which time Mr. Paine made his first appearance in the National Convention—"Without the affair of the 10th

“ of August, liberty was over—We dine to-day with
“ Petion—Paine has entered his name on the roll of
“ Parliament, and went through the forms of office
“ with a great deal of non-chalance—We are well
“ lodged, and beside our bed-rooms, have an entertain-
“ ing room for members to be shown into, and several
“ have called upon us this morning.”

Then you will find, that there being a project to send shoes to the soldiers of France, and arms and muskets, with respect to which project the Prisoner was a contributor—for the purpose of having this present from England to France properly distributed in France, the following letter is written to the mayor of Paris :

“ Sir, you are in no want of friends in England,
“ who ardently wish to be useful to French liberty;
“ but we wish to know some one of your friends who
“ resides in London, in whom you have an entire con-
“ fidence, and to whom we may give our money, in
“ the assurance that it will be remitted to you without
“ delay and without fraud. Mr. Frost, to whom I
“ intrust this letter, is going to set out immediately
“ with Mr. Paine for Paris, and allows me no time for
“ ceremony, if it were necessary. I request you to
“ send me the name of some Frenchman in London,
“ merchant, or other, for the purpose above mentioned.
“ We can now begin the public contribution towards
“ our patriotic gift with a thousand pounds sterling,
“ and I have no doubt but it will amount in time to
“ several thousands; if you consider this step in the
“ same point of view that we do, you will see in it

“ much use to *the common cause* in England and
“ France. I entreat you to give me your sentiments
“ upon the subject, and to point out to me the means
“ by which I may be useful to you.”

This is answered, upon the 1st of October, by Petion, thus—“ You cannot, Sir, doubt of my eagerness to
“ second views so useful, which will for ever merit our
“ gratitude, will rivet the links of fraternity between
“ us, and must produce the greatest advantages to
“ *England and France*. I shall have the honour, Sir,
“ of sending you, without delay, the name of the
“ person in whose hands you may place the funds
“ which you destine to the support of a cause which,
“ in truth, is that of all people who cherish liberty.”

Gentlemen, it may be in the recollection of perhaps most who now hear me, that circumstances of this sort, which were supposed to be in existence, but which, in fact, were not capable of being proved to be in existence, had excited in this country considerable alarm in the minds of many persons who live in it. — This alarm, it seems to have been thought necessary, both in the Constitutional Society, and also in the London Corresponding Society, in some degree to lay asleep, as far as it affected them; they thought it necessary, therefore, to give some declaration, as they call it, of their principles, and I will state to you shortly what that was—but the explanation, which the London Corresponding Society gave, was thought so little safe, though it was given for the purpose of laying asleep alarms, that it will be distinctly proved to you—that being written, as I am instructed to state to you (and

I do it because I am instructed, and it is my duty), being written by Mr. Vaughan, it was agreed to be stuck up round the town at midnight—that accordingly a person, of the name of Carter, a bill-sticker, was employed for that purpose;—that some mistake happening between him and his employers;—that having made that mistake, he was not thought a proper person to be employed in considerable business in the Society afterwards: this person was taken up in the act of sticking the bills round this town, which contains this address—he was prosecuted—he was convicted—and lay six months in a gaol in consequence of that conviction; and this was the fate that attended the issuing into the world an address, which was to appear not originally by day-light, but by midnight.

With respect to the address of the Constitutional Society, I think I shall not be thought to make an unfair observation upon it when I say this—that if I had not read to you what I have already read, you would have found it impossible to say what it was, upon reading that paper, that they meant to say, who published it; but after what I have read to you, I think you can have no difficulty to determine that the paper they published, and the paper of the Corresponding Society, were by no means such as were calculated in any manner to disavow those principles, which I think I have shown you satisfactorily, from March 1792, were the principles they acted upon and adopted.

Gentlemen, the address of the London Corresponding Society is in these words:—"Friends and fellow-

“ countrymen, unless we are greatly deceived, the time
“ is approaching when the object for which we struggle
“ is likely to come within our reach. That a nation,
“ like Britons, should be free, it is requisite only that
“ Britons should will it, to become so”—that is a pas-
sage borrowed from Mr. Paine—“ that such should be
“ their will—the abuses of our original constitution, and
“ the alarms of our aristocratic enemies, sufficiently
“ witness: confident in the purity of our motives, and
“ in the justice of our cause, let us meet falsehood with
“ proofs, and hypocrisy with plainness; let us perse-
“ vere in declaring our principles, and misrepresenta-
“ tion will meet its due reward—contempt.

“ In this view the artifices of a late aristocratic asso-
“ ciation, formed on the 20th instant, call for a few
“ remarks on account of the declarations they have
“ published, relative to other clubs and societies formed
“ in this nation. It is true that this meeting of gen-
“ tlemen (for so they styled themselves) have mentioned
“ no names, instanced no facts, quoted no authorities”
—it was a little difficult to do it, unless they had the
means of seeing all the correspondences at home and
abroad—“ but they take upon themselves to assert that
“ bodies of their countrymen have been associated,
“ professing opinions favourable to the rights of man,
“ to liberty and equality”—mark these expressions—
“ and moreover that these opinions are conveyed in
“ the terms, *no King, no Parliament.*”

Gentlemen, what I have been endeavouring to state
to you is this, that it is necessarily to be inferred from
their principles that they did mean to assert, when they

were ripe for it, *no King, no Parliament* : it is not my imputation—I do not know whose it is, to which this alludes, that they did express their opinion in the language, *no King, no Parliament* ; but I say that they expressed their opinions in language, which, when accurately looked at, as forcibly import the ideas, as if they had used the words *no King, no Parliament*—“if this be intended to include the societies “to which we respectively belong, we here, in the most “solemn manner deny the latter part of the charge”—What is the latter part of the charge ? that they do not mean to have a King or Parliament ? No—but that the opinions are conveyed in the *terms, no King, no Parliament* “Whoever shall attribute to us the “expressions of *no King, no Parliament*, or any design of invading the property of other men, is guilty “of a wilful, an impudent, and a malicious falsehood”—and then this paper, stating a great deal more, which, in justice to the paper itself, shall be read to you, concludes thus—“Let us wait and watch the ensuing “session of Parliament, from whom we have much to “hope and little to fear. The House of Commons “may have been the source of our calamity, it may “prove that of our deliverance ; should it not, we “trust we shall not prove unworthy of our forefathers, “whose exertions in the cause of mankind so well de- “serve our imitation.”

Now, Gentlemen, I ask, after concluding this letter, what this means—“if Parliament should not do it.”—If we are ready to admit that Parliament is formed upon principles that make it competent to do the thing,

if it please to do it, it is all well : but if it won't—then we will not prove unworthy of our forefathers, whose exertions in the cause of mankind so well deserve our imitation—and referring you back to the correspondence between the Norwich and the London Corresponding Society, to the declaration of the 6th of August 1792, which said they had nothing to look for from Parliament—to the correspondence with the National Convention of France—to the conduct, which, in the presence of their delegates, was permitted—and never repudiated by any act of the London Corresponding Society ; and referring you, moreover, to the subsequent evidence, which I have to offer to you ; I think you will find that the sentiment, which is expressed by the author of this paper, upon the 19th of November 1792, was a sentiment which, if followed up by those who continued to hold it, meant that, if Parliament did not give them redress, they would have it by their own force.

With respect to the Constitutional Society, all it thinks proper to say upon the subject is this:—"That
" the object of this Society, from its first institution
" to the present moment of alarm, has uniformly been
" to promote the welfare of the people"—I beg your attention to these words—" has uniformly been to promote the welfare of the people by all constitutional means."—Now if I were to stop here, with a view to show you what you are to understand by the words,—“all constitutional means”—are the means I have been stating constitutional means ? Will it make the means more constitutional that they really are, because

they choose to call them so ?—" And to expose in their
" true light the abuses which have imperceptibly
" crept in, and at last grown to such a height, as to
" raise the most serious apprehensions in every true
" friend of the constitution.

" Resolved, 2dly—That this Society disclaims the
" idea of wishing to effect a change in the present
" system of things by violence and public commotion,
" but that it trusts to the good sense of the people"—
You will find, before I have done, that, in April 1792,
it could not trust to the good sense of the people—
" when they shall be fully enlightened on the subject
" to procure, without disturbing the public tranquillity,
" an effectual and permanent reform.

" Resolved, 3dly—That the intentions of this and
" similar societies have of late been grossly calum-
" niated by those who are interested to perpetuate
" abuses, and their agents, who have been industrious
" to represent the members of such societies, as men of
" dangerous principles, wishing to destroy all social
" order, disturb the state of property, and introduce
" anarchy and confusion instead of regular government.

" Resolved, 4thly—That, in order to counteract the
" operation of such gross aspersions, and to prevent
" them from checking the progress of liberal inquiry,
" it is at this time peculiarly expedient that this and
" similar societies should publicly assert the rectitude
" of their principles.

" Resolved—That the said resolutions be adopted,
" in order for printing in the newspapers."

Now I desire any person to read that paper through

again, and then, Gentlemen of the Jury, if it is relied upon, be so good as to ask yourselves what is the definite meaning of any one passage in it.

About the same time there is an address from the Manchester Society, dated the 14th of December 1792, which appears to have been read in the Constitutional Society, in the presence of the Prisoner, and which address has some very particular circumstances about it, for you will find that there was a resolution upon the 14th of December 1792, in these words—"Read
" a printed address from Manchester—Resolved, that
" the said address be approved for publishing in the
" newspapers."

It appears by a paper, which I shall produce to you, that the words *Read a printed address from Manchester*, are in the hand-writing of Mr. Tooke; that the address itself is in the hand-writing of Mr. Tooke, whether it was a copy of any address at Manchester or not, I do not know: this address appears afterwards to be in print; it is sent for publication; and with a view to show to the public what extent the distribution of libels has arisen to in the progress of a treasonable purpose in London, this address was ordered to be printed, and that a hundred thousand copies of it should be distributed to their correspondents in Great Britain and Ireland.—The report that was made upon it was, that it had been offered to the Morning Chronicle and Morning Post, and that the paper itself, though drawn by a masterly hand, was such, that they durst not venture to print it—I believe it was however printed in London. You will occasionally see papers printed

in the country, at Manchester, if London will not do it; or if the law of England has reached as far as this side of the Tweed, so as to check the publication of a libel, then it is carried over the Tweed, in order to be published in Scotland, where it might be more safely done.

Now in this paper, which bears date upon the 14th of December 1792, and recollecting, as I hope you will do, what I have already stated to you of the principles of those who were concerned in this transaction, as these principles had been manifested in all the other transactions I have stated to you, you will find there is this passage: he says—"To gull the poor with the
" insolent falsehood, that the laws are the same for the
" poor as the rich, or with idle panegyrics on a rotten
" constitution, which you have not examined, and of
" which you feel not the benefit—The real friends of
" the people hear with pity and bear with patience the
" hourly calumnies to which they are exposed; they
" entertain, however, no personal enmities, no aversion,
" but to the enemies of the people, and no disrespect to
" the constitution, but where it is hostile to the rights
" of the people."

Nor, why it is said to be hostile to the rights of the people, I think, can be pretty well understood, after what I have stated to you about these communications with France; but it need not be left there, for you will find that this is more distinctly stated in the draught of an answer to a letter, which was likewise read and entered among the minutes of this Society upon the 26th of October 1792: the draught of the answer

seems to have been prepared on the 2nd November 1792; it was to be sent to the editors of the Patriot. The editors of the Patriot were persons who were living at Sheffield; and it will appear by the papers, the substance of which I have not really bodily strength enough to state to you, were affiliated at the same time with the London Corresponding Society, and also with the Constitutional Society, in the propagation of their principles, and this in an extent, which no language can do justice to, which it is impossible to describe to you without reading a particular letter, in which they themselves state their mode of proceeding, and which, for the purpose of informing you in this respect, shall be presently read to you: to one of them the following is an answer; and I beg your attention to it, of the 2d of November 1792.

“ We rejoice with you in the increase of the members
 “ of the societies of freedom; our bosoms glow with
 “ the sentiments—we are brothers in affection with
 “ you, and with the freemen of Stockport”—(who wrote that letter which I before observed upon, which states that nothing can do but a convention, and that their object is a government immediately constituted by the people; that that cannot be while the Crown or the Lords, as you choose to construe the letter, retain their authority)—They add—“ Freedom, though an
 “ infant, makes Herculean efforts.”—Now they meant nothing in the world to the prejudice of the monarchy, they meant nothing in the world but a full representation of the people in a Parliament co-existing with King and Lords. They add—“ The vipers, aristo-

“cracy,” that is persons who have got coats on their backs—“and monarchy”—we have it yet in England, Gentlemen—“are panting and writhing under its grasp; may success, peace, and happiness attend those efforts!” That letter, so prepared, will be produced to you, with the corrections of Mr. Horne Tooke, in his own hand.

Gentlemen, I have now gone through, as well as I am able, and I hope you will keep in view the case I have stated, the principles and practices of these societies, with all their affiliations. I ought to mention to you, that you will find in the evidence, as it is laid before you, most uncommon industry in picking up fresh connexions. If a paper appeared in the country, stating that a society of any sort was formed, you will find immediate industry to connect them, and affiliate them with the London Corresponding and Constitutional Societies. If these Societies professed—as, for instance, the Stockport Society professed—that they would have nothing but a government constituted immediately by themselves, they contrive to give an answer satisfactory to them. If the Societies professed attachment to the monarchy, and desired explanation whether they meant Mr. Pitt’s plan, which Mr. Paine laughs at—or whether they meant the Duke of Richmond’s plan—or whether they meant, as a leter, you will hear by and by, says, to rip up monarchy by the roots, you will find they satisfied them all sufficiently to enlist them all for that purpose, which from their own transactions, I state to be neither more nor less, than to do, what Mr. Paine did in his book, to combine

the principles, which they stated, when the times were ripe for it, with the practices which were correspondent with those principles; to apply those principles, which were alike the principles of these societies and of the French constitution of 1791, and which Mr. Paine, Mr. Barlow, and those addressers to the Convention, receiving such answers from the Convention in 1792, declared had produced a constitution in France upon the 10th of August 1792, to apply them not to form that, which in its nature is an absurdity, a royal democracy, but that which upon principle is consistent, though it is a wretched bad government, *a representative government*, to be exchanged here in lieu of our limited monarchy, in lieu of our government, under which I state it, with a defiance to the world to tell me that I do not state it truly, that a people never did enjoy, since the providence of God made us a people (you may talk about theories as you please), that they never did enjoy, for so long a time together, such a quantum of actual private happiness and private prosperity, public happiness and public prosperity, under any constitution, as we have enjoyed under the constitution, to the destruction or the support of which it is for you to judge whether such means, as I have been stating to you, were designed to be employed.

The next thing that was to be done, was to go on in strengthening themselves by affiliation; and you will find accordingly that they have connexions at Norwich, Sheffield, Leeds, and other places: indeed, there was hardly a county, in which they had not affiliated societies, and, if you believe them, to great numbers.

The next step they took was, not that they should have it accomplished—their principles would not let them accomplish it—but it was for the purpose of attaching more and more affiliated societies, that they began now to think, in the year 1793, of making applications to Parliament. Gentlemen, in the course of that year 1793, whilst they are to make applications to Parliament, you will find that they distinctly discuss the utility of doing so. The London Corresponding Society, it will be proved to you, take the opinion of the societies in the country with respect to three distinct propositions. Mark this.

Now, Gentlemen, in September 1792, the Stockport Society told the London Corresponding Society that there was no hope of doing any thing but in a *Convention*: the London Corresponding Society give the answer that I have before stated. They began to think of this thing called a Convention in the beginning of the year 1793, and they propose having communication, on the other hand, from the country societies. They state three propositions—What is it we are to do?—Are we to make an application to Parliament?—Are we to make an application to the King?—That would have been, to make application to the King, that he would be graciously pleased, according to the oath which he takes upon his coronation, to give his consent to measures, which were to destroy the government of the country, as it exists, and of himself as a part of it! Or are we to have a Convention? you will find, when the whole of the evidence is laid before you, there is a vast deal of discussion about this

measure of a Convention, there is a vast deal of discussion about applying to Parliament. The application to the King is thought futile without more debate; but they come to this determination, that things are not yet ripe: but that the application to Parliament, however, may be one means of ripening that which is not yet mature: and then soliciting petitions from all parts of the kingdom, telling those, from whom they ask them, that they do not mean that they should have any effect, that they are all waste paper; canvassing all parts of the kingdom, and getting signatures in the way you will find, they send the petitions to Parliament, which, for myself and my posterity, I thank God Parliament did not attend to; I mean petitions to introduce a change in the government upon the principle of annual suffrage and universal representation.

They determined for the present that they would content themselves with petitions: that this would occasion a great deal of debate: that that would give them a vast variety of opportunities of discussing the point they had had in agitation since 1792; and, if the public mind was not ripe for a Convention in 1793, the proceedings and transactions of 1793 had a natural and obvious tendency, when these transactions were made a proper use of, to bring to maturity the project, not yet come to maturity: you will find therefore that both the London Corresponding Society and the Society for Constitutional Information keep this object in view.

The Norwich Society, upon the 5th of March 1793, write thus to the Society for Constitutional Informa-

tion, and which you will see had held correspondence also with the London Corresponding Society upon the subject of the same proposition: "It is with peculiar satisfaction that we are favoured with your correspondence,"—they first say—"We wish to find out a method of redress; *at present* we see a great propriety in universal suffrage and annual elections; but we beg you will be obliging enough to inform us of what you have collected of the sense of the people by your correspondence: we have to inform you that our worthy Corresponding Societies of London have recently submitted three propositions for our investigation; first, whether *a petition to Parliament*, or *an address to the King*, or *a Convention*."

When I find here the word Convention, I think I may address this question to you as men of common sense: if, in August 1792, the London Corresponding Society, by the address which I have read to you, have told you distinctly that they cannot get any redress from Parliament, is it not marvellous how it is to be made out in argument, that, in March 1793, they were to have a Convention in order to get it from Parliament, and more particularly to get it from that Parliament, which, upon their own principles, *was not competent to give it*, if they had a mind to take it from Parliament?

"Permit us briefly to state our views for your revision; and with respect to the first, we behold we are a conquered people; we have tamely submitted to the galling yoke, and resistance *in the present circumstances* is vain; we cannot, we cannot act the

“ man ; and, as necessity has no law, we think ourselves
 “ under that degrading necessity to state our grievances
 “ to the House of Commons, with a request for redress ;
 “ and should they refuse”—which they did—“ to grant
 “ our reasonable petition, we have still got (no thanks
 “ to them)”—here is an accurate, a short description
 of the affiliated societies—“ a formidable engine, that
 “ will convey the insult to the remotest parts of the
 “ kingdom : as to the propriety of the second, we wish
 “ to submit to your superior judgment, and should
 “ esteem it a favour to be informed of the result ; for
 “ at present we are dubious of its good consequences.
 “ Lastly, *a Convention* ; and oh ! that the period were
 “ arrived ; but in the present state of affairs, alas ! it
 “ is impracticable : yet *this* is the object we pursue,
 “ and esteem any other means only in subordination
 “ to, and as having a tendency to accomplish that de-
 “ sirable end.

“ We wish to be in unison with our brethren and
 “ fellow-labourers, and should be glad of any infor-
 “ mation, as soon as it is convenient ; and we beg your
 “ advice whether it is necessary, as soon as possible, to
 “ collect signatures to a petition *for a real representa-*
 “ *tion of the people?*”

This letter, of the 5th of March 1793, having been
 received from Norwich, you will find that Mr. Frost,
 who had then lately come from France, and was about
 that time, I believe, talking of no King in this country,
 in which it is not yet quite lawful to say so, was thought
 an extremely proper person to draw up a letter in
 answer to this ; and accordingly it is stated upon the

books of the Society, that Mr. Frost was ordered to prepare that answer: however, it got into abler hands; for, unless I am again misinstructed, it was settled by counsel, and the substance I will now read to you. It is dated the 16th of April 1793. “ From the Secretary of the Society for Constitutional Information to “ the Secretary of the United Political Societies at “ Norwich.—We have to acknowledge with great satisfaction the letter which you favoured us with, dated “ the 5th instant, relative to the most desirable of all “ other objects, the reform of a parliamentary representation. The honour you do us in supposing that “ we are better fitted than yourselves for the promotion of political knowledge, we must disclaim, because “ we observe, with the greatest pleasure, that our “ country correspondents have too much zeal and “ information to want success in their public endeavours, whether at Norwich, at Sheffield, at Manchester, or elsewhere, throughout the nation. In “ our sincerity for the good of our country we trust “ that we are all equal, and, as such, we doubt not of “ our ultimate success.

“ We see with sorrow the existence of those evils, “ which you so justly represent as the streams of corruption overflowing this once free and prosperous “ country. We see with surprise and abhorrence that “ men are to be found, both able and willing to support “ those corruptions. It is, however, no small consolation to find that others are not wanting, in every “ point of the nation, of an opposite character, who “ are ready to remedy, by all laudable and honourable

“ means, the defect in our representation, the usurped
“ extension of the duration of Parliaments, and other
“ grievances, such as you notice in your letter.

“ That the constitution of England has no more of
“ that character it once possessed; that the supposed
“ democracy of the country has become a matter of
“ property and privilege; and that we have therefore
“ no longer that mixed government, which our adver-
“ saries are praising, when they know it is no longer
“ in our possession, are facts notorious and indisput-
“ able: where then are we to look for remedy?”—
most assuredly those who had said on the 6th of
August 1792, they would not look to Parliament,
would not be so inconsistent as to say that they would
look to it in April 1793—“ to that Parliament of
“ which we complain? to the executive power, which
“ is implicitly obeyed, if not anticipated in that Parlia-
“ ment? or to ourselves?”

Now, who are ourselves? why, those affiliated so-
cieties! “ ourselves represented in some meeting of
“ delegates for the extensive purpose of reform, which
“ we suppose you understand by the term *convention*.”

The Norwich Society writes to the Constitutional So-
ciety, and it proposes a Convention as the only means
of doing this business. The Constitutional Society
states that it is to be done only in a Convention,—of
what? of themselves. Why then, I say, upon the
16th of April 1793, the Constitutional Society con-
strued the acts of the 20th of January 1794, which I
shall allude to presently, and the 27th of March 1794,
because the Constitutional Society said that a Conven-

tion was a convention of themselves, represented in some meeting of delegates,—and for what purpose? for the extensive purposes of reform;—how? by applying to Parliament? No. Why, this passage states expressly that the reason why they would have a Convention was, because they would not apply to Parliament; and can I impute to men of understanding, that are employed in this business, for there are men of understanding enough employed in this business; whether that understanding is properly employed in this business, it is not for me to say any thing about—can I impute any thing so absurd to men of understanding as that they meant to form a Convention, which Convention should carry their petition to Parliament?

“ It is the end of each of these propositions that we
“ ought to look to; and, as success in a good cause
“ must be the effect of perseverance and the rising
“ reason of the time, let us determine with coolness,
“ but let us persevere with decision. As to a *Conven-*
“ *tion*, we regard it as a plan the most desirable and
“ most practicable;”—when? so soon as the great
body of the people shall be virtuous enough to join us
in the attempt? No—but “so soon as the great body
“ of the people shall be *courageous and virtuous* enough
“ to join us in the attempt.” You will see whether
the interpretation, which I give of the word “courageous” by the manner in which I mean to express it, is due to it or not, by what I have to state to you.

Gentlemen of the Jury, with a view to explain this thing called a Convention, as contradistinguished from

Parliament, give me leave to carry back your attention for a moment to January 25, 1793. In this Society, which, in November 1792, had the correspondence with France, which I stated, in January 1793, when we were on the eve of a war, and upon the eve of a war which had been produced by the principles which brought fraternization into this country, and took place soon after that decree of November 1792, you will find that these resolutions were come to—"That Citizen St. André, a member of the National Convention of France,"—that Convention which had deposed a King, as that which could not exist in a government, formed upon the principles of the rights of man, as disclosed by Mr. Paine, his fellow-member in that Convention,—“as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of the Society.—Resolved, That Citizen Barrère, a member of the National Convention of France, being considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member of this Society.

“Resolved, That Citizen Roland, being also considered by us as one of the most judicious and enlightened friends of human liberty, be admitted an associated honorary member.

“That the speeches”—Gentlemen, I particularly request your attention to this—"that the speeches of Citizen St. André and Citizen Barrère, associated honorary members of this Society, as given in the Gazette Nationale, ou Moniteur universel of Paris, on the

“ 4th, 6th, and 7th of January 1793, be inserted in the “ books of this Society ;”—and, as far as this Society could effectuate it, they endeavoured also to have these resolutions published in the newspapers, and it will be in proof to you that, in the books of the Society, it is resolved that each of these resolutions should be so published.

Now, Gentlemen, I shall prove to you, by evidence completely effectual for that purpose, what these speeches were, and then, if you will be so good as to ask yourselves what the Constitutional Society, which in January and February ordered these speeches to be published meant by *a convention* in that letter of the 16th of April 1793, you will judge whether that Convention was to be the means (because they would neither apply to the King, the executive power, nor to the Parliament), was to be the means of handing their application to Parliament; or whether, on the other hand, it was to be the means of introducing by its own force a *representative government* in this country; that assembly, which, you will find, they insist would for the time absorb all the powers of government, which, if it did exist, would delegate its legislative power only so long as they choose to delegate it, a body competent to create a legislature, and possessing within itself an eternal power of reform, an eternal source of revolution. With respect to St. André, speaking to the Convention, he says, “Your right to decide the fate of Kings arises “ from your being a revolutionary Assembly, created “ by the nation”—a revolutionary Assembly created

by the nation in such a state is at least that thing, which I think no good Englishman ever will wish to exist to see—"a revolutionary assembly created by the nation in a state of insurrection."

Speaking of the trial of the King of France, they say, "This proceeding is of the highest importance to public order, absolutely necessary to the existence of liberty, and connected with whatever is held most sacred by the nation."

"The people of Paris"—this is upon the question whether the person of the King be inviolable, a maxim unquestionably true in the constitution of this country, a maxim perfectly consistent with the civil liberties of the people, because, though the King's person is inviolable, he has advisers, who are violable as to every act that he does.—"The people of Paris, by making an holy insurrection against the King on the 10th of August,"—that 10th of August, which, in Mr. Frost's letter to Mr. Tooke, was absolutely necessary to the existence of liberty in France—"deprived him of his character of inviolability. The people of the other departments applauded this insurrection, and adopted the consequence of it. The people have therefore formally interposed to destroy this royal inviolability. The tacit consent of the people rendered the person of the King inviolable; the act of insurrection"—I pray Heaven defend us from the operation of such principles in this country—"the act of insurrection was a tacit repeal of that consent, and was founded on the same grounds of law as the consent itself; the King's person is inviolable only with relation to

“ the other branches of the legislature, but not with
“ relation to the people.”

Now, I ask, what did those Gentlemen, who ordered this speech to be published, that the King's person was inviolable only with relation to the other branches of the legislature, when they were talking of conventions, mean ? I am sorry to say that my mind is drawn to the conclusion that they thought the King's person was not inviolable with relation to the people, a convention of whom was to be formed, and was to be formed because an application to Parliament was useless.

Now, let us see the description of a Convention.
“ A Convention differs from an ordinary legislature in
“ this respect : a legislature is only a species of super-
“ intending magistracy, a moderator of the powers of
“ government : a Convention is a perfect representa-
“ tion of the Sovereign : the members of the Legisla-
“ tive Assembly acted in August upon these principles,
“ in summoning the Convention ; they declare”—pre-
cisely as is declared in the letter I have been reading to you—“ that they saw but one measure which could
“ save France, namely, to have recourse to the supreme
“ will of the people, and to invite the people to exer-
“ cise immediately that unalienable right of sovereignty,
“ which the constitution had acknowledged, and which
“ it could not subject to any restriction ; the public
“ interest required that the public should manifest their
“ will by the election of a National Convention, formed
“ of representatives invested by the people with un-
“ limited powers. The people did manifest their will
“ by the election of that Convention. The Conven-
“ tion being assembled is itself that sovereign will,

“ which ought to prevail. It would be contrary to
 “ every principle to suppose that the Convention is
 “ not alone exclusively the expression of the general
 “ will.

“ The powers of the Convention must, from the
 “ very nature of the assembly, be unlimited with
 “ respect to every measure of general safety, such as
 “ the execution of a tyrant. It is no longer a Con-
 “ vention, if it has no power to judge the King : a
 “ Convention is a constituent body, i. e. a body that
 “ is to make a constitution for the people ; a legislature
 “ makes laws under an established constitution, and in
 “ conformity to it. It is despotism when, in the ordi-
 “ nary and permanent establishment of a state, there is
 “ no separation of powers ; but it is of the very essence
 “ of a constituent body, to centre for the time all
 “ authority ; it is the very nature of a National Con-
 “ vention, to be the temporary image of the nation,
 “ to unite in itself all the powers of the state, to
 “ employ them against the enemies of liberty, and to
 “ distribute them in a new social compact called a
 “ constitution.”

Gentlemen, after I have stated that to you, I think I cannot possibly be mistaken when I conceive that you can do no otherwise than put the same construction upon this letter which I did.

I will now take the liberty of calling your attention to a letter of the 17th of May 1793, and the answer of the 26th of May 1793, passing over a great many letters, the substance of which you will inform yourselves of by having them read, namely, letters that prove affiliations solicited and granted to Leeds,

Tewkesbury, Coventry, and many places in the kingdom, more numerous than I apprehend you will believe, till you see what the number of them is, by evidence actually before you.

Gentlemen, I beg leave now to call your attention, in order of time, to a letter of the 17th of May 1793, for it begins a correspondence most excessively material with that part of the country in which the Convention has been already held; I mean Scotland;—a Convention which, I think I shall satisfy you, did, for the time, act upon the principles that I have stated to you, from the speech of Barrère, as far as it could act, and in which I think, at the moment that I address you, if it had not been stopped in the execution of its purposes, but had been joined by those whose acts we are considering this day, you might have seen, in the speeches of a National Convention in Great Britain, a repetition of the language of Barrère, instead of hearing it from me in a court of justice.

Gentlemen, I hold it, in the office that I fill, to be due to the administration of the justice of this country, to say distinctly, if I understand the case upon which certain persons were tried for the acts which they did in Scotland, that, if they had been tried for high treason, they would have had no right to complain; no right to complain if the question upon their conduct had been agitated in that shape before a jury of the country.

Gentlemen, upon the 17th of May, a Mr. Urquhart going from London, Mr. Hardy, and a person of the name of Margarot, celebrated in the future history of

this business, join, and write a letter—Parliament had, as they expected it would, and as they meant it should, rejected their petition—“ The London Corresponding Society eagerly seizes the opportunity of Mr. Urquhart going back to Edinburgh, to request of your Society a renewal of correspondence, and a more intimate co-operation in that which both Societies alike seek, viz. a reform in the parliamentary representation. We are very sensible that no Society can by itself bring about that desirable end; let us, therefore, unite as much as possible, not only with each other, but with every other Society throughout the nation. Our petitions, you will have learned, have been all of them unsuccessful: our attention must now, therefore, be turned to some more effectual means; from your Society we would willingly learn them, and you, on your part, may depend upon our adopting the firmest measures, provided they are constitutional, and we hope the country will not be behindhand with us.

Now, by “ constitutional measures ” it is clear that they meant that a *Convention*, as contradistinguished from a Parliament, would be constitutional: it is clear they meant it, because they have said it.

Then Mr. Skirving writes thus:—“ Mr. Urquhart did me the pleasure to call on Thursday afternoon, and delivered your letter of the 17th inst. I am much pleased with the contents of it, and shall lay it before the first meeting of our societies here, which, however, does not take place till Monday sevensnight. I would have acknowledged the receipt

“ of your favour by yesterday’s post, but was too much
“ employed in removing our household to another
“ lodging to attend to any thing else.” Now I beg
your attention to this, because you will see in the
transactions of the people in convention in Edinburgh,
that they looked to what they were to do in case of a
rebellion as well as any other.

“ If either you in England or we in Scotland should
“ attempt separately, the reform which we, I trust,
“ seek to obtain, we should, by so doing, only expose
“ our weakness, and manifest our ignorance of the cor-
“ ruption which opposes our important undertaking:
“ if we sought only the extirpation of one set of in-
“ terested men from the management of national affairs,
“ that place might be given to another set: without
“ affecting the vitals adverse to the system of reform,
“ these might be easily accomplished; but to cut up
“ deep and wide-rooted prejudices, to give effectual
“ energy to the dictates of truth in favour of public
“ virtue and national prosperity, in opposition to self
“ and all its interested habits, and to withstand and
“ overawe the final efforts of the powers of darkness,
“ is the work of the whole and not of a part; a work
“ to which mankind till this awful period were never
“ adequate, because never till now disposed to frater-
“ nize, not merely or only, I trust, from the sense of
“ the common danger to which we are exposed, but
“ from the ennobling principle of universal benevo-
“ lence.

“ I know no greater service that I can do my
“ country, than to promote the union you so wisely

“ desire ; and I am happy to assure you, that I have
“ hitherto discovered no sentiment in our association,
“ adverse to the most intimate and brotherly union
“ with the associations in England.

“ I think the minds of all must in the nature of
“ things be now turned to *more effectual means of re-*
“ *form.* Not one person was convinced of the neces-
“ sity of it by the most convincing arguments of
“ reason, together with the most unequivocal expres-
“ sions of universal desire. What then is to be hoped
“ for from repetition ? I am only afraid that the bow
“ in England against reform was so contracted, that in
“ returning it may break. You would willingly learn
“ you say, from us—I own that we ought to be forward
“ in this : we have at once in great wisdom perfected
“ our plan of organization, and if we were in the same
“ independent state of mind as the people of England,
“ we would be able to take the lead—the associations
“ with you are no more, I fear—excuse my freedom—
“ than an aristocracy for the good of the people : they
“ are indeed moderate, firm, and virtuous, and better
“ cannot be ; but we are the people themselves, and we
“ are the first to show that the people can both judge
“ and resolve, if undirected by faction, with both
“ wisdom and moderation.

“ I have not a higher wish in the present exertions
“ for reform than to see the people universally and
“ regularly associated, because I am persuaded that
“ the present disastrous engagements will issue in ruin,
“ and the people must then provide for themselves :
“ and it would be unhappy, when we should be ready

“ to act with unanimity, to be occupied about organi-
“ zation, without which, however, anarchy must ensue
“ —we will not need but to be prepared for the event—
“ to stand still and see the salvation of the Lord—let
“ us therefore take the hint given us by our opposers ;
“ let us begin in earnest to make up our minds relative
“ to the extent of reform which we ought to seek, be
“ prepared to justify it, and to controvert objections :
“ let us model the whole in the public mind ; let us
“ provide every stake and stay of the tabernacle which
“ we would erect, so that when the tabernacles of
“ oppression in the palaces of ambition are broken
“ down, under the madness and folly of their sup-
“ porters, we may then, without anarchy and all dan-
“ gerous delay, erect at once our tabernacle of righteous-
“ ness, and may the Lord himself be in it.”

Gentlemen, these are things all very easy to be understood.

“ How hurtful to the feelings of a reflecting mind,
“ to look back to the wretched state in which the
“ Roman monarchy, enfeebled and broken by its own
“ corruptions, left the nations, which it subjected, like
“ sheep without a shepherd ; they soon became a prey
“ to every invader, because there was none to gather
“ and unite them ; had they, foreseeing the evil, asso-
“ ciated for mutual defence, no robber would have been
“ able to enslave them, they would have given laws to
“ all parties, as well as to themselves ; all separate
“ colonies and nations would have sought their alliance ;
“ but not having virtue to associate, and heal the
“ divisions, and root out the selfish spirit, which ambi-

“ tion-fostering governments procure to their subjects,
 “ they fell under oppressions, from under whose iron
 “ sceptre they have never yet been able to deliver
 “ themselves.

“ We may suppose an event, which we deprecate;
 “ nay, should we not be prepared for every possible
 “ issue of the present unprecedented divisions of man-
 “ kind, we have a right to be apprehensive of the
 “ abilities of our own managers, who are so afraid to
 “ depart from precedent, that, like men of detail, they
 “ may be inadequate to the task of preserving the vessel
 “ from shipwreck, now grappling with danger not
 “ only great, but new and uncommon. If the present
 “ Ministry fail, who after them shall be trusted? It
 “ requires little penetration to see the anarchy and
 “ discord which will follow; it will be such, that
 “ nothing short of a general union among the people
 “ themselves, will be able to heal: haste therefore to
 “ associate, at least to be ready to associate; if then, such
 “ a broken state of things should take place, the civil
 “ broils that would necessarily ensue, would soon sub-
 “ side before the united irresistible voice of the whole.
 “ Do not, I entreat you, hesitate thinking such a work
 “ premature as yet,”—this is written in May 1793,—
 “ but a *month*, and then it may be too late; a malig-
 “ nant party may be already formed, and only waiting
 “ for the halting of the present managers; it will then
 “ be too late to seek to subject to deliberation, after a
 “ party has dared the act of rebellion. If you go no
 “ further than separate meetings in different towns, we
 “ will not be able to confide in your con-fraternity,

“ because while in such a state you may be but the
“ tools of a faction ; we could have all confidence and
“ unite with all affection in *one assembly of commis-*
“ *sioners* from all the countries of the world.”

Gentlemen, observe that expression ; this letter, in the beginning of it, speaking with reference to the war, does not know but the palaces of ambition may be all upset ; the pillars will tumble with their supporters. Then it says, “ we could have all confidence
“ and unite with all affection in *one assembly of com-*
“ *missioners* from all countries of the world,—if we
“ knew they were chosen by the unbiassed voice of the
“ people, because they would come up with the same
“ disinterested views and desires as ourselves, having
“ all agreed to a common centre of union and interest ;
“ but we could not confide in fellow-citizens, who kept
“ aloof from such union, and would not previously
“ affiliate in one great and indivisible family.”

Gentlemen, I have before told you, that there was a Society at Birmingham. Upon the 10th of June 1793, the London Corresponding Society writes to that Society in these terms : “ It is with singular
“ satisfaction the Committee of the London Corre-
“ sponding Society received your letter ; they are very
“ glad to see the spirit of freedom springing up in
“ Birmingham, and they make no doubt but that the
“ zeal of your Society and the increase of your num-
“ bers will soon do away the stigma thrown on your
“ town by the unjustifiable behaviour of a Church and
“ King mob ; we are entirely of your opinion with
“ regard to the necessity *of a general union*, and we

“believe, as you do, that when once the country shall
 “have so united,”—what then? “*the Neroes of the*
 “*day will be forced to yield to the just demand of a*
 “*long and sore oppressed people.*”

Gentlemen, the political societies at Norwich also write to the London Corresponding Society with respect to this Convention upon the 25th of June 1793, in which they say, “We also received your friendly
 “letter prior to that wherein you stated three propo-
 “sitions: first, a petition to His Majesty, or to Par-
 “liament, or a National Convention; and ordered one
 “of our Committee to answer it; should be glad if you
 “will inform me whether it was attended to. I gave
 “my opinion on the subject to the Constitutional
 “Society of London, and found their ideas congenial
 “to my own,”—that alludes to the letter they wrote him—“viz. an address to the King—futile; a petition
 “to Parliament (as a conquered people)—tolerable;
 “a National Convention (if circumstances admitted),
 “best of all.”

Gentlemen, you will find that, upon the 28th of June 1793, whilst these societies were holding so much correspondence with respect to this National Convention, as the only effectual means, it was thought an address to the nation should be prepared: that is not immaterial, because you will find afterwards, that the project of a National Convention in Scotland was thought by many of the members of it, and many of the members of those bodies, to have failed for want of such a previous address to the nation; and upon this occasion two gentlemen are brought together, I do not

know whether one of them at that time was a member of the Society or not, but two members are brought together ; Mr. Horne Tooke and a person of the name of Yorke, who, you will find, was a delegate to the Convention in Scotland, and who you will find has acted a considerable part in other parts of this country, were to be employed in preparing that address.

Upon the 6th of July 1793, a letter having been received from the political societies at Norwich, the answer, signed by the Prisoner at the bar, is given in these terms :

“ Fellow-citizens, The London Corresponding Society have received, and read with pleasure, your letter of the 25th of June ; but the answer, which you mention to have been made to our three questions, has not yet come to hand : we shall be glad to be informed by your next whether it was ever put in the post-office.

“ With regard to the questions themselves, however individuals may have made up their minds on them, the public seemed most to approve the mode of petitioning Parliament.”

Then it states the effect of the petitions. “ Exhorting you therefore to throw aside all unavailing complaint, we wish you to occupy yourselves in instructing the people, in introducing and maintaining order and regularity in your own Society, and in forming a junction with all others associated for the same purpose throughout the nation, by keeping up a constant correspondence with them : but above all, *orderly and courageously preparing yourself for the*

“ *event,*”—now mark the event,—“ *for, as it is natural*
 “ *to suppose that those, who now prey on the public,*
 “ *will not willingly yield up their enjoyments, nor re-*
 “ *possess us of our rights without a struggle, which by*
 “ *their behaviour in Ireland,*”—that alludes to the bill
 in Ireland to prevent a Convention,—“ *we have some*
 “ *reason to think they are meditating, and perhaps may*
 “ *intend to effect by means of those very foreign merce-*
 “ *naries, who are now paid by the sweat of our brow,*
 “ *and whom, under some plausible pretence, it would be*
 “ *no difficult matter to land on our shore ; it may be*
 “ *more advantageous to humanity to show them at first*
 “ *that their opponents are neither mob nor rabble, but*
 “ *an indignant oppressed people, in whom is not yet en-*
 “ *tirely extinct the valour of their forefathers.*”

Gentlemen, in a letter to Hertford, which is written
 by the same Corresponding Society, upon the 31st
 of July 1793, and which Society at Hertford had
 desired to know their principles, they state themselves
 in the same manner ;—“ We receive with pleasure
 “ your assurance of co-operating with us for a reform
 “ in Parliament, an object to which all our endeavours
 “ tend, and on which our hearts are invariably fixed ;
 “ but as your declaration that you will not pledge
 “ yourselves to demand universal suffrage and annual
 “ Parliaments, is followed by no specific plan of reform
 “ of your own, we are under some difficulty how to
 “ conclude ; perhaps, as *strangers, you write to us with*
 “ *that prudent reserve* which is sometimes necessary,
 “ and that idea receives strength from your appearing
 “ afterwards convinced that the common object of the

“ two societies is the same, which we readily admit ;
“ but, as mutual confidence is the basis of union, and
“ the only rational pledge and support for co-operative
“ exertion, we trust your next will do away every
“ difficulty.

“ With respect to universal suffrage and annual Par-
“ liaments, a mature conviction of their justice and
“ necessity for the preservation of liberty and prospe-
“ rity to the great body of the people, and for securing
“ the independence of Parliament, was our primary
“ inducement to associate. We therefore candidly
“ assure you, that these our principles, as already an-
“ nounced to the public, remain immutable, uncon-
“ nected with any party whatever ; we can consider
“ no reform radical, but such as will enable every
“ individual of the community to enjoy the advantages
“ thereof equally with ourselves ; for, if ignorance of
“ the nature of government, or the merits of the can-
“ didates, be an argument against universal suffrage,
“ as our opponents pretend, the same reasons would
“ equally incapacitate a great majority of those who
“ now enjoy that privilege, to the exclusion of very
“ many thousands, much better informed than them-
“ selves ; not to mention that, under a more equalized
“ mode of government, the people would be at once
“ induced and empowered to improve themselves in
“ useful knowledge. In a word, we know no principle
“ consistent with justice or reason, by which we could
“ exclude conscientiously any part of the community
“ from an equality of rights and privileges, which

“ every member of society, as he contributes to its
“ support, ought equally to enjoy.

“ With respect to annual Parliaments, we will just
“ remark, that good members may be re-elected, whilst
“ twelve months we think fully sufficient for the
“ welfare of millions to remain at the mercy of a bad
“ representative. Having thus unequivocally stated
“ our principles, we shall conclude by observing, that
“ the bill just passed in Ireland is of a nature to
“ awaken the jealousy of every friend to freedom and
“ humanity—will render every exertion justifiable,
“ should a similar attack upon constitutional freedom
“ be attempted here.”

In October 1793, the Scotch Convention having met, of which we have all of us heard so much out of this place, you will find that a letter had been received from a Mr. Sinclair, together with an address from Skirving, who was secretary to the Convention and Friends of the People in Scotland, by the London Constitutional Society; an extraordinary meeting of the Society was therefore called, at the Crown and Anchor, to consider the utility and propriety of sending delegates to a Convention of delegates of the different societies in Great Britain, at Edinburgh, for the purpose of obtaining parliamentary reform.

Upon the 28th of October 1793, this Society came to a resolution to send delegates to that Convention, and the two persons elected were Mr. Sinclair and Mr. Yorke; and perhaps one cannot state a more striking instance of the extraordinary power of a small

society, affiliating itself with societies, spread all over the whole kingdom, than by stating that Sinclair, who was deputed from this Society, meeting with other delegates in Scotland, had no difficulty of assuming with others the title of a delegate to the British Convention—to assert their right to do acts in contradiction to the Legislature—than by telling you that this Yorke and Sinclair were deputed from this Society by a poll, in which he, who had the majority, had seventeen votes only; Mr. Yorke and Mr. Sinclair are accordingly sent down, and they go with all the delegation of the power of the people, which this Constitutional Society, thus affiliated, could give them, and what they thought it was you will see presently.—The London Corresponding Society was not to be backward in forming this Convention in Scotland—and, accordingly, you will see in the evidence, which I have to state to you, a considerable deal of contrivance on the part of the Prisoner at the bar, in order to bring about that Convention in Scotland; for, Gentlemen, he writes a letter to the Norwich Constitutional Society which deserves your very serious attention, in which he expresses himself thus—“We have to acknowledge, at once, your favours of the 3rd of September and 14th instant; multiplicity of business prevented my answering your first, but will now inform you that the spirit, shown in it, gave great satisfaction to our Society at large. The rejoicings for the capture of Valenciennes were not confined to Norwich alone: the ignorant every where else throughout the nation betrayed their imbecility on the

“ occasion—the taking of a town, the slaughtering
“ of thousands of human beings, the laying waste
“ whole provinces, or the enslaving a nation (however
“ great evils they may be), can only retard for a small
“ space of time the progress of truth and reason. Be
“ not disheartened; therefore, pursue your plan, in-
“ struct mankind, and constitutionally set your faces
“ against existing abuses; be assured that many are
“ our friends, who only wait a favourable opportunity
“ to openly join us, while our enemies have much en-
“ feebled themselves and their cause by their arbitrary
“ exertions: despotism is at its last gasp—one or two
“ campaigns more will terminate its existence.

“ We are glad to see that you begin to make a
“ proper use of delegation; where bodies of men are
“ too numerous to be convened easily on every occasion,
“ delegation is the best, and indeed the only way to
“ obtain the general opinion. Scotland, improving
“ on the idea, have not only summoned their own
“ delegates, but also invite those of every other So-
“ ciety to attend a kind of Convention” (as if Mr.
Hardy knew nothing about it), “ which is to be held
“ at Edinburgh on the 29th instant—the enclosed
“ paper, which I, previous to the communicating your
“ letter to our committee (which will meet only to-
“ morrow), make haste to transmit to you, will show
“ you that your Society is included in the general
“ invitation to send delegates to that meeting, which
“ we exhort you to do, if you possibly can; I firmly
“ believe our Society will not miss the opportunity of
“ doing the same.”

Now you will find that, upon the 5th of October 1793, Hardy, who wrote this letter upon the 17th, wrote to Skirving in this way—"With pleasure I
"peruse your favour of the 2nd instant, but, as yet,
"have seen nor heard nothing of the two copies of
"Mr. Muir's trial, which you mention as having been
"sent to the Society and to myself—be kind enough,
"notwithstanding, to return that gentleman thanks
"for his polite attention, and assure him that we view
"him in the light of a martyr to freedom, as well as
"Mr. Palmer, and that our warmest hopes are, that
"the oppressors of mankind will either be ashamed or
"afraid of carrying their revengeful malice into ex-
"ecution.

"The General Convention, which you mention,
"appears to Mr. Margarot (to whom alone I have
"communicated your letter) and myself to be a very
"excellent measure, *and as such, I could wish you,*
"*without delay, to communicate it officially to our*
"*Society without any ways mentioning that you had*
"*written to me privately*—if in your official letter
"you should require us to send a deputation to that
"meeting, I have no doubt but our Society would,
"with pleasure, accept the invitation; and I am per-
"suaded it may do much good.—Our freedom, as you
"justly observe, depends entirely upon ourselves; and
"upon our availing ourselves of this opportunity,
"which, once lost, may not be recovered so soon. I am
"glad to discover by your testimony that I was by no
"ways mistaken in the high opinion I always had of
"Lord Daer's patriotism: a title may be a bar to dis-

“ interested patriotism, but it seems he has evinced it
 “ not to be an insuperable one.

“ You are right, it is true, that we have had ano-
 “ ther general meeting, at which a hastily composed,
 “ and suddenly produced address to the King was
 “ read, applauded, and agreed to be presented, but, on
 “ a cool revisal, the said address being found to be
 “ more ill-natured than spirited, more dangerous in its
 “ language than advantageous in its object, besides
 “ being too long, the Committee, with the approbation
 “ of the majority of the Society, have adopted another,
 “ much safer, more apposite, and relating solely to the
 “ war: enclosed you have a copy of it, but you was
 “ misinformed when you was told we passed any reso-
 “ lutions at that meeting, for we only came to one, and
 “ that rather of a private nature, namely, that the
 “ conduct of Sir James Sanderson, in preventing the
 “ meeting of the London Corresponding Society, at the
 “ Globe Tavern, Fleet Street, was of such a nature as
 “ to place him below our censure.”

Gentlemen, the London Constitutional Society gave their delegates, Mr. Yorke and Mr. Sinclair, certain instructions, and I ought here to tell you, by way of explaining the effect of what I am now to state, that the manner of keeping the books of the London Constitutional Society, as I understand it, was this—The resolutions, made upon one night, were taken upon loose minutes, either by the secretary, or by other persons, who acted in his absence, or in his presence, when he was not doing that duty himself: they were entered, before the subsequent night of meeting, regu-

larly in the book, and the first thing done upon the subsequent night of meeting was to read the resolutions which were made upon the former night, and to see that they were correct : now it will naturally occur that the minutes may explain the book, and the book may explain the minutes : now, when they come to draw the minutes, which you will have for the instruction of their delegates at a Convention, which was to be held in Scotland, the first idea was to instruct those delegates to petition Parliament ; but they seem to have recollected that that was a measure, which had been abandoned some months before by all the societies, with whom they were affiliated : they therefore struck out of their minutes the purpose of applying to Parliament, and they send instructions in these words :

“ The delegates are instructed, on the part of the
“ Society, to assist in bringing forward and supporting
“ any constitutional measures for procuring a real
“ representation of the Commons of Great Britain in
“ Parliament — that, in specifying the redress to be de-
“ manded of existing abuses, the delegates ought never
“ to lose sight of the two essential principles, general
“ suffrage and annual representation, together with the
“ unalienable right in the people to reform, and that a
“ reasonable and known compensation ought to be
“ made to the representatives of the nation by a na-
“ tional contribution.” What they meant by the *representatives* of the nation, after what I have already read to you, I think you cannot possibly mistake.

The London Corresponding Society are somewhat bolder in the instructions, which they send with their

delegates to the Convention in Scotland: you will find these instructions are to the following effect.—By article the 1st, the delegate is instructed “that he shall on no account depart from the original object and principle of this Society; namely, the obtaining annual Parliaments, and universal suffrage, by rational and lawful means.

“2nd, To support the opinions that representatives in Parliament ought to be paid by their constituents.

“7th, That it is the duty of the people”—now, Gentlemen, I beg your attention to this; it is the principle, upon which the Convention of Scotland was formed, and upon which it acted; “That it is the duty of the people to resist any act of Parliament, repugnant to the original principles of the constitution, as would be every attempt to prohibit associations for the purpose of reform.”

Gentlemen, there is no government in this country, if this principle is to be acted upon, because nobody can tell to what extent it will go; and accordingly you will see that these delegates, who went into Scotland, with this authority in their hands, carried the authority far beyond the resistance, which they were authorized to make according to the principles here laid down, and they state a great variety of cases, all approved afterwards, both by the London Corresponding, and the Constitutional Society, in which the people, and the Convention of the people, were to resist Parliament.

Gentlemen, these societies having sent delegates to the Convention in Scotland, I proceed now to state

that the acts of that Convention, to the extent at least to which the delegates from this country were authorized to act, are evidence against those who sent them, and therefore against the persons here indicted. But, further, they communicated to the societies here, particularly to the Prisoner at the bar, their acts; and the societies here, in distinct resolutions, acting upon consideration, approved their whole conduct: they therefore made that conduct of their delegates in the Convention in Scotland, whether it was agreeable to the original authority which was given them, or not, their own; they adopted it by giving it their subsequent approbation.

Gentlemen, you will find, first of all, that they received a letter from the Sheffield Society, affiliating with them, in which it was proposed to determine like Englishmen.

After receiving a great deal of other correspondence which I will not trouble you with reading, the societies here prepare to send delegates to Scotland. Mr. Skirving sent a circular letter upon the arrival of the English delegates to the delegates of all the associations in Scotland, which were extremely numerous, and very widely extended; and I think the delegates of these different societies came together to the number of one hundred and eighty. After sitting some time, Mr. Margarot, you will find, who was the delegate of the London Corresponding Society, represents to the body there met—"That the societies in London were very
"numerous, though sometimes fluctuating; that in
"some part of England whole towns are reformers;

“ that in Sheffield and the environs there are fifty
 “ thousand; that in Norwich there are thirty societies in
 “ one; that if they could get a Convention of England
 “ and Scotland called, they might represent six or
 “ seven hundred thousand males, which is a majority
 “ of all the adults in the kingdom.”

You will find Mr. Margarot moves, that, previous to publishing an address to the public, a committee should be appointed to consider the means, and draw up a plan of general union and co-operation—between what? Not between any societies in the two nations, but a plan of general union and co-operation *between the two nations*. In their constitutional pursuit of a theory of parliamentary reform, they style themselves a Convention, and this, Gentlemen, is extremely material for you to attend to; they style themselves, “ The British
 “ Convention of the delegates of the people associated
 “ to obtain universal suffrage and annual Parliaments.” Then I ask what is a Convention of the people according to these societies? According to the proceedings in Scotland, a Convention of the people is a Convention of the delegates from these societies in England and Scotland.

They assert that the people have in them all civil and political authority; and they, repeatedly, again and again, from the moment that this Convention was formed in Scotland to the moment of its dispersion, more especially at the time of its dispersion, more especially still from the time of its dispersion till the time of a meeting on the 20th of January, at the Globe Tavern; and on the 27th of March, when

another Convention was proposed, as I stated at the outset, they repeatedly and in the most pressing terms state that *now or never* was the time, when the people were to meet, when they were to act by their own force, when they were courageously to prepare themselves for the event, and to show those whom they called their oppressors and plunderers, that they were a brave people, in whom valour was not extinct.

Having thus met together, upon the principles of the French system, which took place upon the 10th of August 1792, they proceed directly to the French practices, which took place then in the National Assembly of France, took place then because the people of France were understood to be represented by a Convention; these delegates taking upon themselves also to be a Convention of the people, they instituted *Primary Societies*, they divided the country into *departments*, they appointed *Provincial Assemblies*, they have *Committees of Union*, they thank for *patriotic donations*, they *assume an epoch*, they appoint a *Secret Committee* to be called together upon extraordinary emergencies; and upon the 28th of November 1793, they come to a resolution, to which I must beg your serious attention.

Gentlemen of the Jury, you will remember that they went with authorities, which stated to them that it was the duty of the people, which people they had taken upon themselves to represent, to resist any act of Parliament, that should be made for a particular purpose. It is hardly, I think, to be contended, that the great bulk of the people of this country, happy in their poli-

tical existence, as undoubtedly they are, remaining happy in their political existence, because they do not feel grievances (till they are taught by malignant industry to believe that they exist), I mean to such a degree as to call for measures of this sort, could believe that the Legislature of the country, doing justice to the subjects, whom it is bound to protect, would permit a proceeding of this kind to go on—yet, Gentlemen, confiding so much as these persons did in the supposed state of their number in that country, and of those who were to be connected with them in this, you will find that, upon the 28th of November 1793, one of the persons belonging to that Convention, Citizen Sinclair, I think, the members all standing up upon their feet, for the greater solemnity of the thing, proposes this resolution—“Resolved, that the following declaration
“and resolutions be inserted at the end of our minutes
“ —‘That this Convention ’”—now if it be possible to say that any Convention means to act as a Convention of the people, it is that which sets itself above the Legislature in the act it is doing—“that this Convention,
“ considering the calamitous consequences of any act
“ of the Legislature, which may tend to deprive the
“ whole or any part of the people of their undoubted
“ right to meet, either by themselves or by delegation,
“ to discuss any matter relative to their common interest, whether of a public or private nature, and
“ holding the same to be totally inconsistent with the
“ first principles and safety of society, and also subversive of our known and acknowledged constitutional
“ liberties.”

Gentlemen, permit me to call your attention to this, that this declaration, in its principles, follows the instructions that they had received, that, if any attempt was made to bring in a Convention bill, they were then to do so and so. They then proceed thus—"Do declare before God and the world, that we shall follow the wholesome example of former times, by paying no regard to any act, which shall militate against the constitution of our country."—That is saying, that the will of the Legislature is not a better judge of what is an act against the constitution of the country, than the affiliated clubs at Edinburgh—"and shall continue to assemble and consider of the best means by which we can accomplish a real representation of the people," is that a Parliament?—"and annual election until"—what?—"until compelled to desist by superior force.

"And we do resolve that the first notice given"—The first notice—Parliament is not even to discuss the thing: but, if an intimation of it is made in Parliament—"That the first notice given for the introduction of a Convention bill, or any bill of a similar tendency to that passed in Ireland in the last session of their Parliament, or any bill for the suspension of the Habeas Corpus Act, or the act for preventing wrongous imprisonment, and against undue delays in trials in North Britain, *or in case of an invasion.*"

Gentlemen, I call back to your recollection the letter of Skirving—I call back to your recollection not only the letter of Skirving, but that the troops of liberty were promised to be sent with bayonets and pikes from

that country, which at this moment was likely to invade us—"or the admission of any foreign troops whatsoever into Great Britain or Ireland"—If the Parliament of this country, for the purpose of protecting itself against that foreign invasion, had brought these foreign troops into Great Britain or Ireland, not being the troops of a nation with which we were at war, *this Convention of the people* was to act upon the introduction of such foreign troops in the same manner as they would act in case of an invasion by those who were at war with us—what is the construction that follows upon that?—that, even if foreign troops, to meet the exigence of an invasion, were introduced—what then? "all or any one of these calamitous circumstances"—why calamitous? they might be necessary for the very existence of the country—"shall be a signal to the several delegates to repair to such place as the Secret Committee of this Convention shall appoint, and the first seven members shall have power"—to do what?—to do that exactly, which a National Convention in France would do—"to declare the sittings permanent"—why? Because the duly constituted Legislature of the country had dared not to do an act, but to entertain a deliberation upon doing an act—the first notice was to call together this Convention, and, being called together, their sittings were to be *permanent*.

Gentlemen, are the parties to this Convention in Scotland such men, as would think of bringing themselves together to declare their sittings permanent upon such a ground, as they state here, namely, the Legislature of a great country acting in the execution

of the great duties which belong to the Legislature of that country, without supposing, by that solemn declaration, that they could make their meeting effectual by the acts which were to be carried on for the purpose of preventing that Legislature from deliberating upon such duties? By what acts could it be done but by exertions, as they style them, in the manner of their forefathers, by force? By affiliated societies, exerting their physical strength, that physical exertion, which Mr. Barlow observes is to be preceded or precluded by spreading useful knowledge, and that useful knowledge being that, which is to beat down the existing authority of King, Lords, and Commons.

“The Convention therefore resolve, that each delegate immediately on his return home do convene his constituents, and explain to them the necessity of electing a delegate or delegates, and of establishing a fund without delay, against any of these emergencies, for his or their expense, and that they do instruct the said delegate or delegates to hold themselves ready.”

Gentlemen, you see what they expected from the Legislature—they knew that what they were doing ought to provoke the Legislature to do what they meant to forbid the Legislature to do; and they instruct their delegate or delegates to hold themselves ready—“to depart at one hour’s warning.” Well might Mr. Skirving say, that *a month’s delay, and the whole was lost*: well might Mr. Hardy say, what he says in letters I shall produce presently, that if the opportunity is lost now, it is lost for ever—we must

act now, or we never can. Having some reason to suppose that this Convention would be dispersed, they then with great solemnity come to another resolution :

“ That the moment of any illegal dispersion of the
 “ British Convention shall be considered as a summons
 “ to the delegates to repair to the place of meeting
 “ appointed for the Convention of emergency by the
 “ Secret Committee, and that the Secret Committee be
 “ instructed without delay to proceed to fix the place
 “ of meeting.” Gentlemen, after these resolutions it became necessary to do a little more, that is, to declare upon what principles this Convention existed. Now mark the principles, and do your country justice : apply so much of the observations that I have made to you, as are worthy your attention, to what I have before stated as the necessary connexion between the principle and practice of Mr. Paine, and of these societies.

Gentlemen, these principles brought together the French Convention—what is the practice then, that flows out of the principle ? Why, it is the assembling of a Convention upon principles obliging it to sit for the purpose of declaring that the Legislature shall do nothing but what they liked : that is to all intents and purposes a National Convention ; if not a Convention for an eternal reform, at least a Convention, that prohibits the legislature to do any thing but what is agreeable to them. Then, having met for the execution of the practice, they proceed immediately to the declaration of the principle—but they do not pro-

ceed to a declaration of the principle till they have done that strong and solemn act, which I have stated: then they resolve “that a committee be appointed to “draw up a declaration”—This is France exactly—It is the Southwark Society in 1792—“a declaration of “the natural imprescriptible rights of man, and that “the same be prefixed to an address to the people of “Great Britain. That a committee of observation,” that is, for the better effectuating the purpose that they had before declared, “be appointed in London to give “the earliest intimation of any motion of the kind “mentioned in the foregoing resolutions to the different “societies.”

You will then find that they met in a place, which they call *Convention Hall*, under the name of the *British Convention*, and then they are informed that the London Corresponding Society would undertake to be that committee of observation, which they say, ought to exist—and then you will find that the members mentioned that they had thousands of their constituents in London, Sheffield, Norwich, Leeds, &c. and that the Convention was to look at itself as in its true nature a *committee of the people*—that therefore it was necessary to have, as they have in France, *Primary Societies*, who shall be consulted—in other words, that this Committee of the People at Edinburgh, which was to overrule the Legislature, was itself to be overruled by *these Primary Societies*, these primary societies themselves being overruled by the leaders of the great clubs, from which they emanated, and so forming in this country a government, under the

power of a Jacobin Club, and that government destroying the present existing Legislature of the kingdom.

You will also find that, before these persons parted, Mr. Margarot communicated to his constituents the proceedings of this body, which he styles always the *Convention of the People* associated to obtain annual Parliaments and universal suffrage. There are letters which I shall lay before you, without detailing them, stating that they looked up to the London Corresponding Society, and the Society for Constitutional Information—that their active exertions were necessary for the accomplishing the projects, which they sitting in Edinburgh were to execute; and then the two delegates of the London Corresponding Society write to Mr. Hardy, as the secretary of that Society, an account of their proceedings—they give him an account of that solemn motion, and of the manner of making it, which I have just been detailing to you—they state to him that they had determined to assemble in Convention in any such case—that the appointment of the place, which is a circumstance I beg your most serious attention to, was left to a *Secret Committee*; but then they send to him an account of the motion, informing him in the letter—that “letters convey but very imperfectly, and with no great degree of safety, what we might wish to inform each other of.”

Now what do you think it is that they do not inform him of in this letter?—They do not inform him in this letter, because letters will not convey every thing safely—that *the Convention was to meet in case*

of invasion—that was a secret, which durst not be trusted to correspondence by letter, and because it existed in that motion which was made, every other part of it being communicated even in a letter, they consider it of such a nature, that they determine not to insert it even in their own minutes.

The Secret Committee having been appointed in the Scotch Convention, the fact being communicated to the London Corresponding Society by their delegates, you will likewise find that Mr. Sinclair the delegate from the Constitutional Society to the Society at Edinburgh, was not behindhand in the communication of it: he communicates the proceedings, and desires that a Secret Committee may be appointed in that Society. It was not long after this, that the wisely exerted power of the magistracy of that country dispersed that Convention. The dispersion of that Convention, which, from what I have before stated to you, was conceived to be a body that must then do its work, or its work never would be done, suggested to the societies of this country the necessity of undertaking the same business, of undertaking it at the same hazard, knowing that the project must either *then* be accomplished, or that it *never* could thereafter be attempted—for that no government could permit such a Convention as this to meet, when its nature was really understood, without taking some means to protect itself against the consequences of the existence of such a Convention.

Gentlemen, you will therefore find, that, after they had been dispersed, and after, in consequence of that dispersion, some of them had been punished in Scot-

land, by sentences which were pronounced upon offences, not stated in the records of that court in so aggravated a way against them as they might, in my humble opinion, have been stated, that it then became necessary that some step should be taken immediately to prevent the mischief which was meditated; for you will find, in the evidence, propositions in these societies about a rescue, which failed; but you will find in their correspondence from Scotland, and their correspondence from those ships in which the members of the Scotch Convention were, before they sailed in execution of their sentences, not only the strongest invitations to do some strong acts in this country, to both societies, but, on the other hand, the strongest and most unequivocal declaration by both societies, that these strong acts must be done.

Gentlemen, you will find that before they left Scotland, upon the 11th of December, 1793, there is a letter from Mr. Margarot to Mr. Hardy to this effect—
“We received your letter and remittance yesterday,
“and shall be glad to receive another such without
“delay.

“The Convention you will see has declared itself
“permanent; they are to sit in some other part of the
“country, which is not yet declared.”

Gentlemen, Mr. Sinclair, the delegate of the Constitutional Society, came to London. I have before observed to you, from a letter of Gerald and Margarot, that there were some things that could not safely be conveyed by letter. Margarot writes a letter from Edinburgh to the Prisoner, in which he says—“My

“ colleague Gerald also proposes to leave this place the
“ latter end of this, or the beginning of the next week :
“ he will explain himself to you : pray send him
“ money for this journey, &c. He is now gone to
“ *Perth* on very urgent business. Since Sinclair’s
“ departure nothing new has occurred, except the
“ formation of a Society somewhere about the Grampian
“ Hills”—this shows the spirit of fraternization—
“ they have already made a subscription towards it :
“ again we are interrupted, and likely to lose the post,
“ unless I dispatch this immediately.”

Upon the 22nd of December 1793, another letter is written to Mr. Hardy by the same gentleman, which probably led, in some degree, to the transactions that I have to state, as having passed in January 1794 ; for, after stating what had happened to himself in Scotland, he says—“ Sheffield has on this occasion exhibited a
“ most manly spirit”—The Sheffield Society had at that time sent out some excessively strong resolutions, which I shall give you in evidence in the course of this business—“ I am extremely mortified to find so
“ great a difference between them and the London
“ Corresponding Society ; it is not however too late.
“ For God’s sake send forth some very strong resolutions, and above all, talk of impeachments, and of
“ petitioning the King to remove from their offices
“ those persons who have thus violated the laws of the
“ realm.”

You will find from a letter of the 24th of December, that Margarot, a delegate from the London Society, a delegate of Norwich, and a Mr. Brown, who was the

delegate from Sheffield, had gone to attend a general meeting of the Society of the Friends of Freedom in East Lothian, and then the expression is—" *The time*
" *is come that we must show ourselves worthy of liberty,*
" *or deservedly lose it.* The opposition of our adversa-
" ries is demonstration of the propriety and efficacy of
" the means which we have employed to obtain it."

Upon the 27th of December 1793, you will find Mr. Margarot states that Mr. Gerald was gone to Perth; that he himself had been in East Lothian; that they had been well employed; that they must send out spirited resolutions; and you will find, that, upon the 11th of January 1794, Mr. Hardy writes a letter to Norwich, relative to the proceedings I have now been stating, the Constitutional Society first, and the London Corresponding Society afterwards, having in their public acts approved every thing that this Convention had done. Mr. Hardy's letter runs thus:

" I have just received a letter from Citizen Margarot
" at Edinburgh, with some of the Edinburgh Gazetteers,
" where you will see that Citizen Skirving is found
" guilty, and sentenced for fourteen years transpor-
" tation to Botany Bay. Margarot's trial comes next;
" he meets it with great firmness and resolution. I
" have no time to make my comments on the pro-
" ceedings, but I think our opponents are cutting their
" own throats as fast as they can—*Now is the time*
" *for us to do something worthy of men: the brave de-*
" *fenders of liberty, south of the English Channel, are*
" *performing wonders, driving their enemies before them*
" *like chaff before the whirlwind.* Margarot tells me

“ that he has not time to write to you just now, but
“ he hopes to have time very soon, when his trial is
“ over, and immured in a prison. The London Cor-
“ responding Society is to have a general meeting and
“ an anniversary dinner on Monday the 20th instant,
“ at the Globe Tavern, Strand.”

Gentlemen, you will find that Mr. Margarot, this delegate, with whom Mr. Hardy is thus in correspondence, writes to the Norwich United Societies—“ This
“ morning ten ships of war have left Spithead for the
“ Channel ; and it is here reported, that the Brest
“ fleet is out. Rumour, always magnifying things,
“ says there are seventy sail of the French at sea ; if
“ so, there *must be a number of transports among*
“ *them, and a descent may probably be the consequence*
“ *—for God’s sake, my worthy friends, do not relax*
“ *in the cause of freedom.*”—Now what connexion had a descent with the cause of freedom ?—“ Continue as
“ you have begun : consolidate your own societies—
“ unite with others—persevere, and make no doubt,
“ but sooner or later, your endeavours will be crowned
“ with success.”

Gentlemen, I come now to state to you the proceedings of the year 1794, as far as they depend upon written evidence ; and it must be a satisfaction to the mind of every man who hears me, that, in the course of this business, whatever observations may arise upon the parol evidence that will be given you, I think you will find so strong a confirmation of all you are to hear in the written evidence that is to be laid before you, that these observations cannot possibly mislead

you from coming to the true conclusion upon the whole of the evidence, whatever that may be.

Gentlemen, the Constitutional Society, having sent their delegate to the Scotch Convention, you will find that, at a meeting of the 17th of January 1794, the following resolutions were come to, to which I must desire your particular attention, more especially as there are some circumstances belonging to the composition of those resolutions, which appear to me to be worthy of attention. I have before told you that these resolutions were usually drawn from minutes—the original minutes still exist, and perhaps they show that discretion, with which men are sometimes able to state, in different ways, precisely the same thing: I say, that these resolutions of the 17th of January 1794, were meant to excite the subjects of this country to resistance.

“ Resolved, That law ceases to be an object of obedience, whenever it becomes an instrument of oppression.

“ Resolved, That we recall to mind, with the deepest satisfaction, the merited fate of the infamous Jefferies, once Lord Chief Justice of England, who at the æra of the glorious Revolution, for the many iniquitous sentences which he had passed, was torn to pieces by a brave and injured people.” This is applied to the Judges of Scotland, who executed the law upon such facts as I have been stating.—“ That those who imitate his example deserved his fate”—this sort of intimation might have a tendency, I hope it had not, to put in any peril those who did, in the regular course, and in

the due course of their judicial duties, pass those sentences, to which these resolutions allude.

“ That the Tweed, though it may divide countries,
“ ought not and does not make a separation between
“ those principles of common severity in which English-
“ men and Scotchmen are equally interested ; that in-
“ justice in Scotland is injustice in England ; and that
“ the safety of Englishmen is endangered, whenever
“ their brethren in Scotland, for a conduct which
“ entitles them to the approbation of all *wise*, and the
“ support of all *brave* men, are sentenced to Botany
“ Bay, a punishment hitherto inflicted only on felons.

“ That we see with regret, but we see without fear,
“ that the period is fast approaching when the liberties
“ of Britons”—this was in January—“ must depend,
“ not upon reason, to which they have long appealed,
“ nor on their powers of expressing it, but on the firm
“ and undaunted resolution to oppose tyranny by the
“ same means by which it is exercised.” Now what
is the tyranny ? The exercise of the regular govern-
ment of the country. What is the means by which
it is exercised ? The application of the force of the
country in support of the government of the country.
What is this resolution then ? Why, that the means
which the Government takes in the regular exercise of
its functions, ought now to be resisted—“ We see it
“ with regret, but do not see it with any fear.”

That a breach of allegiance was contemplated you
can have no doubt, for you will see in the original of
this, that it stood thus : that, “ as allegiance and pro-
“ tection are reciprocal, law ceases to be an object of

“obedience, whenever it becomes an instrument of oppression.”—Couple that, as it stood originally, with the third resolution, and what is it? Why, it is—That the protection, which was due from him to whom allegiance is due, has not been afforded: therefore allegiance is no longer due. “We see with regret, “but we see without fear, that the period is fast approaching, when the liberties of Britons must depend, “not upon reason, to which they have long appealed, “nor on their powers of expressing it, but on their firm “and undaunted resolution to oppose tyranny by the “same means by which it is exercised.”

You will also find that it stood, “that Englishmen “feel the oppression of Scotchmen, which they are “determined to resist at the hazard of their lives.”—You will find the last resolution, in the minutes, comparing the genuine representatives of this country, in the House of Commons, with this Convention in Scotland, which Convention in Scotland had taken upon itself to resolve upon resistance to even a motion, in either House of Parliament of this country, in the execution of their duty, thus:

“That we approve of the conduct of the British “Convention, who, though assailed by force, have not “been answered by arguments, and who, unlike the “members of a certain Assembly, have no interest “distinct from the common body of the people”—The words originally stood—who “being the incorrupt “representatives of *many thousands*, have spoken the “language of truth and firmness.” Can I make this Court the instrument of conveying to the public, what

I confess I do most anxiously wish to make it the instrument of conveying to the public, as far as it is fit, in the execution of the duty that I am now discharging, that they may understand what it is that men, when they are scattering these libels through the country, mean—"This Convention, assailed by force, " have not been answered by arguments"—How was it possible to answer those by arguments, who were coming to solemn and sacred resolutions, which they did not even dare to put upon the face of their own minutes? How were we to answer those by argument, who were working under ground till they had blown up the government, and then say, You cannot point out that we have been acting ill, because we won't tell you how we have been acting?

Upon the 16th, Mr. Margarot writes again, leaving them to pursue what sort of conduct they please.

Then there is a letter of some importance of the 28th of January, which is written to the person who stands at the bar—"We have just received notice from the " Sheriff to hold ourselves ready to depart at an hour's " warning: we go by night: we imagine to Newgate: " look out for us."

Gentlemen, you will likewise find a letter from Mr. Margarot to Mr. Hardy, of great consequence, as it explains many of the passages in the evidence between the 20th of January 1794, and the time that those persons were apprehended. Margarot writes from Edinburgh in this manner:—"Armed associations are, I " perceive, now set on foot by the rich: wherefore " should not the poor do the same? Are you to wait

“ patiently till twenty thousand Hessians and Hanove-
“ rians come to cut your throats? And will you stretch
“ forth your necks like lambs to the butcher’s knife;
“ and, like lambs, content yourselves with bleating?
“ Pray let me hear from you soon. Remember me
“ to Moffat, Muir, and Palmer, and all suffering
“ brethren.”

Gentlemen, upon the 20th January 1794, there was a meeting at the Globe Tavern; that meeting, which, you will permit me to observe, Hardy mentioned in his letter of the 11th of January 1794, which I before have spoken of, when he said the London Corresponding Society were to have a general meeting, and an anniversary dinner. Gentlemen, the proceedings of that day will deserve your very particular attention.

“ At a general meeting of the London Correspond-
“ ing Society, held at the Globe Tavern, Strand, on
“ Monday the 20th day of January 1794, Citizen
“ John Martin in the chair,”—when I state this to
you, I ought to say that I shall prove the Prisoner to
have been present, or to have been connected with all
the transactions that I have been stating—“ the follow-
“ ing address to the people of Great Britain and Ireland,
“ was read and agreed to: Citizens, We find the na-
“ tion involved in a war, by which, in the course of
“ one campaign, immense numbers of our countrymen
“ have been slaughtered; a vast expense has been in-
“ curred; our trade, commerce, and manufactories are
“ almost destroyed; and many of our manufacturers and
“ artists are ruined, and their families starving.

“ To add to our affliction, we have reason to expect
“ that other taxes will soon be added to the intolerable
“ load of imposts and impositions, with which we are
“ already overwhelmed, for the purpose of defraying
“ the expenses which have been incurred in a fruitless
“ crusade, to re-establish the odious despotism of
“ France.

“ When we contemplate the principles of this war,
“ we confess ourselves to be unable to approve of it
“ as a measure either of justice or discretion; and, if
“ we are to form our calculation of the result, from
“ what has already passed, we can only look forward
“ to defeat, and the eternal disgrace of the British
“ name.

“ While we are thus engaged in an extensive and
“ ruinous foreign war, our state at home is not less
“ deplorable.

“ We are every day told by those persons who are
“ interested in supporting the corruption list, and an
“ innumerable host of sinecure placemen, that the con-
“ stitution of England is the perfection of human
“ wisdom; that our laws (we should rather say their
“ laws) are the perfection of justice; and that their
“ administration of those laws is so impartial and so
“ ready, as to afford an equal remedy both to the rich
“ and to the poor, by means of which we are said to be
“ placed in a state of absolute freedom.”—The paper
then goes on and reasons upon the state of the law in
this country, under an exposition of Magna Charta,
which gives as nearly the true meaning of it as a man
would give, who had never seen it.

“ If we look to Ireland, we find that acknowledged
 “ privilege of the people to meet for the support and
 “ protection of their rights and liberties, is attempted
 “ by terror to be taken away, by a late infamous act of
 “ Parliament.”—That was an act to prevent Conven-
 tion by delegates with dangerous objects.—“ Whilst
 “ titles of honour—no—but of dishonour, are lavished,
 “ and new sources of corruption opened to gratify the
 “ greedy prostitution of those who are the instruments
 “ of this oppression.

“ In Scotland, the wicked hand of power has been
 “ impudently exerted without even the wretched for-
 “ mality of an act of Parliament.”—A piece of parch-
 ment justice they call an act in the Convention of
 Scotland.—“ Magistrates have forcibly intruded into
 “ the peaceful and lawful meetings of freemen, and by
 “ force (not only without law, but against law) have
 “ under colour of magisterial office, interrupted their
 “ deliberations, and prevented their association.

“ The wisdom and good conduct of the British Con-
 “ vention in Edinburgh has been such, as to defy their
 “ bitterest enemies to name the law which they have
 “ broken ; notwithstanding which, their papers have
 “ been seized and made use of as evidence against
 “ them, and many virtuous and meritorious individuals
 “ have been, as cruelly as unjustly, for their virtuous
 “ actions, disgraced and destroyed by infamous and
 “ illegal sentences of transportation ; and these unjust
 “ and wicked judgments have been executed with a
 “ rancour and malignity never before known in this
 “ land ; our respectable and beloved fellow-citizens

“ have been cast fettered into dungeons, amongst felons
“ in the hulks, to which they were not sentenced.

“ Citizens, We all approve the sentiments, and are
“ daily repeating the words for which these our re-
“ spectable and valuable brethren are thus, unjustly
“ and inhumanly, suffering ; we do associate ”—mark
the expression—“ in order to obtain a fair, free, and
“ full representation of the people in a house of real
“ national representatives.”—Now, did the Convention
at Edinburgh then associate for the purpose to obtain
a fair, free, and full representation of the people in a
house of real national representatives ? If they did,
they associated to form that house of real representa-
tives upon this principle, that they were, as Mr. Skir-
ving calls them, the people in Scotland, that they were
to affiliate and to associate themselves with societies in
England ; and that, in that state of affiliation and as-
sociation, holding a Convention, as they call it, of the
People, from delegates of these societies, and not from
the people—to do what?—why, to meet as an Assembly,
which Assembly was to control the operations of Par-
liament ; of that Parliament, which must be the repre-
sentatives of the Commons of the Nation ; an expres-
sion, which, by the way, they never used, adopting
generally terms of a different import, “ Real National
“ Representatives.”

“ Are we also willing to be treated as felons for
“ claiming this our inherent right ? which we are
“ determined never to forego but with our lives, and
“ which none but thieves and traitors ”—that is, per-
sons acting in the regular execution of the functions

of magistracy—" can wish to withhold from us? consider, it is one and the same corrupt and corrupting influence, which at this time domineers in Ireland, Scotland, and England: can you believe that those who send virtuous Irishmen and Scotchmen, fettered with felons to Botany Bay, do not meditate, and will not attempt to seize the first moment, to send us after them? or, if we had not just cause to apprehend the same inhuman treatment, if, instead of the most imminent danger, we were in perfect safety from it, should we not disdain to enjoy any liberty or privilege whatever, in which our honest Irish and Scotch brethren did not equally and fully participate with us? Their cause then, and ours, is the same, and it is both our duty and our interest to stand or fall together."

Gentlemen, recollect the expressions that I read to you from Skirving's letter: "will you wait till barracks are erected in every village, and till subsidized Hessians and Hanoverians are upon us." You will now see from the proceedings I am stating to you. that *the time was come*, that they were not only *virtuous* but *courageous* enough to do an act, which in 1792 and 1793, though they were virtuous enough to do, they were not courageous enough to do.

"You may ask, perhaps, by what means shall we seek redress? We answer, that men in a state of civilized society, are bound to seek redress of the grievances from the laws, as long as any redress can be obtained by the laws; but our common Master, whom we serve (whose law is a law of liberty, and

“ whose service is perfect freedom), has taught us not
“ to expect to gather grapes from thorns, or figs from
“ thistles : *we must have redress from our own laws.*” —
Were they to be a Convention of the People, then,
without making laws ? They approve the whole con-
duct of the British Convention, that would not let
others make laws, and yet were they not to make
laws ?

“ *We must have redress from our own laws,*” and not
from other laws ; — the laws of Great Britain are thus
described, — “ *the laws of our plunderers, enemies, and*
“ *oppressors :*” indeed, if the Legislature of their
country were their plunderers, enemies, and oppressors
in their notions, it would be very difficult to suppose,
that they were to have redress from the laws of that Le-
gislation ; but then it follows, of course, that they meant
to have redress from laws made by some other body,
that had authority to make laws ; and what that other
body is, but the Convention which they determine upon,
must be left for those to say, who can find it out. They
go on then to say,

“ There is no redress for a nation circumstanced as
“ we are, but in a fair, free, and full representation of
“ the people.” — Now, here again I ask, what is that
fair, free, and full representation of the people not
mentioned to be in Parliament ? but if it was, it would
be precisely the same phrase as occurred at the time of
the Commonwealth. But they take upon them to
approve of the British Convention, and to unite the
two nations of England and Scotland, to be a British
Convention formed by delegates from the different
societies in this country, and professing to act as a

Convention of the People; I say, that it is *that species of Convention*, which, in their opinion, was a *fair, free, and full representation of the people*, in which, and which alone, they hoped for that redress, which they could not hope for from the Parliament of Great Britain, those, who were their plunderers, their enemies, and oppressors? Could it be possible for them to suppose, that they could make Parliament the willing or unwilling organ of bringing about this representation of the people to subsist by annual suffrage and universal representation? Could it have entered into their imagination that those, whom they call their plunderers, enemies, and oppressors, would ever become the voluntary or involuntary instrument of doing that which was the object of all these societies, from March 1791, till they were checked in the execution of their purposes?

Then follows a resolution that will require likewise your very particular attention: “Resolved, That during
“ the ensuing session of Parliament the General Com-
“ mittee of this Society do meet daily, for the purpose
“ of watching the proceedings of the Parliament and
“ of the administration of the government of this coun-
“ try.” This was to be published: they do not therefore venture to insert *totidem verbis* that resolution, which I have stated to you was so solemnly made, and so sacredly sworn to in the Scotch Convention, but they resolve—“that upon the first introduction of any bill
“ or motion inimical to the liberties of the people, such
“ as for landing foreign troops in Great Britain or
“ Ireland, for suspending the Habeas Corpus Act, for

“proclaiming martial law, or for preventing the people
“meeting in societies for constitutional information”
—What the meaning of the term *constitutional* is, we
can judge by this time—that upon any express motion
of this nature, “or any *other innovation of a similar*
“*nature*; that on any of these emergencies the Ge-
“neral Committee shall issue summonses to the dele-
“gates of each division, and also to the secretaries of
“the different societies affiliated and corresponding
“with this Society, forthwith to call a *General Con-*
“*vention of the People*, to be held at such place, and
“in such a manner, as shall be specified in the sum-
“mons, for the purpose of taking such measures into
“their consideration.” They omit the case of invasion
in this publication. But what is this, supposing
nothing had passed in Scotland of what I have stated
to you? What! Is the legislature, is the rule and
government in this great country reduced to this state,
that it shall find no protection in the administration of
the law of the country against persons, associating and
affiliating themselves for the purposes which they de-
clare here? Is no motion to be made in Parliament
for any purpose, which these societies choose to com-
prehend under the terms “any other innovation,”
without explaining what it means? but what? but
that bodies of men are to come together, claiming to
themselves the civil and political authority, which
exists in the natural and physical qualities of the people,
and then to contend that they have got a *Convention*
of the People?

Now, do they convene the people? In fact, it will

be said, nothing like it. But they call themselves *a Convention of the People* in the very terms that they use: the summonses are to go to the delegates of each meeting, and also the secretaries of the different societies corresponding with this Society, and no where else. For what purpose? To *call a General Convention of the People!* Then, what is the meaning of all that, taking it with its context? It is this: From your laws—the laws of you, our plunderers, enemies, and oppressors—we can expect no relief: we do not mean to come to you for any: but we will watch you, and if you dare to propose an innovation of any sort, we shall call a *fair, free, and full representation of the people*. Composed, pray how? By delegates from our societies, to seek, as a General Convention of the People, redress from our own laws. It appears to me that the reasoning upon this paper is so whole and entire, that it is out of the power of human ingenuity to touch it.

Then they resolve, “That a hundred thousand “copies of the Address to the people of Great Britain “and Ireland shall be printed.” Then they follow this up with the publication of a great many toasts; and really, when one mentions such a thing as toasts in the trial of a great national cause, such as this undoubtedly is, one is afraid of its sinking into insignificance; and yet this is a great feature in this cause. You will find that, previously to one of the most seditious meetings which was ever held in this country, it was thought of importance enough that they should meet once, twice, or thrice, in committees, in order to

frame toasts, which were best calculated to inflame their minds, and to urge those forward, who were already engaged in these projects—"The Rights of Man:"—"The British Convention;"—"Success to the arms of Freedom, against whomsoever directed." This is during the war—against whom were the arms of Freedom directed, in the opinion of these persons? You remember they said that "the Elector of Hanover may join his troops to traitors and robbers; but the King of Great Britain will do well to remember that this country is not Hanover: should he forget the distinction, we will not." They corresponded with the French in October; and in November 1792, they state to you that the principles of their resolutions are those upon which they meant to act,—that Great Britain was now engaged in a war—which they condemned—in which the arms of freedom, as they said, had never been engaged on the part of Great Britain. Then the meaning of the toast is obvious. Another toast was—"The virtuous and spirited Citizens now in confinement for matters of opinion." Now, these matters of opinion are acts all done in the long tissue and detail of a conspiracy to subvert the monarchical government of this country, under its present legal provisions and limitations.

The name of Mr. Frost being mentioned—I mean him no disrespect in saying this—but it is to the purpose of this business to take notice of it—that gentleman was prosecuted in this country for this doctrine—"No King, none in England, I am for liberty and equality every where." What was the consequence

of that? The judgment of the law of England upon him was, that he was guilty of an offence: he was punished: he has suffered that punishment, and made an atonement to the law: but these gentlemen, who sent Mr. Frost with Mr. Barlow, to state such doctrine to France, and bring such doctrine back from France, you find that they have a formal resolution that they will sustain this Mr. Frost in all his persecutions and prosecutions. Does that mean nothing? If Mr. Frost is persecuted for holding doctrines in the country, which were to put the King out of the system, is it no evidence of intention with respect to those, who engaged in such projects as I have mentioned, that they do come to a resolution, in which they declare that the law, questioning the propriety of declarations of that kind, amounts to a persecution, and that he ought to be sustained against it?

Gentlemen, you will hear from witnesses, who were present, what the proceedings on the 20th of January, and the general complexion and nature of them were. Mr. Martin being in the chair, and Mr. Hardy being present, who was a member of both these societies, an attending member in both of them, I will give you Martin's account of the proceeding on the 22nd of January 1794, in a letter in his own handwriting, sent to Maurice Margarot, at Edinburgh, who had advised, you will recollect, the London Corresponding Society to come to some strong resolutions—who had urged that *now is the time, that two months in Scotland would do the business*, provided they did their duty in England.

“ My dear Sir, I dare say you think I have forgot
 “ you from my not having written to you, but you
 “ know my sentiments so well that it was unnecessary
 “ for me, and would probably have been improper to
 “ say much on the subject of your mission”—then he
 states something about private business.

“ We had a meeting on Monday, I was in the chair
 “ —the newspaper gives our numbers at 500, but we
 “ were nearer 1500 : every thing was well conducted,
 “ that is to say regularly, and the proceedings were
 “ tolerably bold. Mr. Hardy, I dare say, has sent you
 “ a copy of the address and resolution.

“ Your conduct receives universal approbation : and
 “ though I at one time dreaded the want of money, yet
 “ that is now over : those, who opposed the subscrip-
 “ tion at first, are now putting their hands to the very
 “ bottom of their pockets, and swear by God you shall
 “ be supported with the last guinea—we must have
 “ another general meeting in a chapel, or some large
 “ place, and declare the purpose of a subscription, and
 “ I think we shall get plenty of the needful for that and
 “ other purposes. Have you read my letter to Lord
 “ ——— ? do you incline to try the writ of error ?
 “ what do the Scotch lawyers think of it, and what do
 “ you think of the legal knowledge of my countrymen ?
 “ I firmly believe that the law is the only science, of
 “ which they know nothing.

“ The King went yesterday to meet *his* Parliament”
 —so now we have got no Parliament of ours, the
 people of this country—“ they sat till six o’clock this
 “ morning : the papers are not out, but I am told only

“ twelve members were for peace : I am glad the
 “ Minister has so great a majority within doors for the
 “ war, and that the people have a great majority with-
 “ out doors against the war : the swinish rogues had
 “ the impudence to write ‘ No war ’ on all the doors
 “ and corners of the Houses of Lords and Commons,
 “ and they had even the audacity to groan and hiss,
 “ while his most sacred Majesty was passing to and
 “ from the House—nay, I am told, a woman, moved
 “ and seduced by the instigation of the devil, and trai-
 “ torously intending, &c. did in St. James’s Park take
 “ off her patten, and threw it with all her force at His
 “ Majesty, whereby the glass of the state coach was
 “ broken, and His Majesty put in fear : God save the
 “ King, for if, &c.—as Gerald says”—there he leaves it.

“ The Society is rapidly increasing, both in spirit
 “ and in numbers, and the rich now begin to come
 “ among us, and to sit down with pleasure among the
 “ honest men with the leathern aprons.

“ I could write to you strange things, but I know
 “ not but this may be read by somebody before it
 “ comes to your hands.”

Gentlemen, after this had passed, you will find that
 that letter was written by the Corresponding Society
 to the Society for Constitutional Information, which I
 first mentioned to you upon the 27th of March 1794,
 and now, with your leave, I will read a part of it to
 you again.

“ I am directed by the London Corresponding So-
 “ ciety to transmit the following resolutions to the
 “ Society for Constitutional Information.” I should

tell you first, in the order of time, that the Society for Constitutional Information distinctly adopt that paper of the London Corresponding Society of the 20th of January 1794, as their own, and order it to be entered upon their books; they approve of the manly sentiments of it, and they fully take it to themselves, to all intents and purposes, as if it had been a conjunct meeting of them both. Then, the London Corresponding Society having held this language respecting the Convention, and upon the 24th of January the Constitutional Society having adopted the project of a Convention stated in the address of the London Corresponding Society of the 20th, and the nature of that Convention being a Convention from the affiliated societies, to take upon themselves the character of *a Convention of the People*, it would be surprising indeed if the Convention, which they speak of on the 27th of March, should be a Convention of a different nature from that which they had both agreed to on the 20th and 24th of January—and with that observation I come again to this letter of the 27th of March.

“ I am directed by the London Corresponding Society
“ to transmit the following resolutions to the Society
“ for Constitutional Information, and to request the
“ sentiments of that Society respecting the important
“ measures which the present juncture of affairs seems
“ to require. The London Corresponding Society
“ conceives *that the moment is arrived*”—throughout
the years 1791, 1792, and 1793, they thought it had
not arrived—“ when a full and explicit declaration is
“ necessary, from all the friends of freedom—whether

“ the late illegal and unheard-of prosecutions and sen-
“ tences shall determine us to abandon our cause, or
“ shall excite us to pursue a radical reform, with an
“ ardour proportioned to the magnitude of the object,
“ and with a zeal as distinguished on our parts, as the
“ treachery of others in the same glorious cause is no-
“ torious. The Society for Constitutional Information
“ is therefore required to determine whether or no they
“ will be ready, when called upon, to act in conjunc-
“ tion with this and other societies, to obtain a fair
“ representation of the people, whether they concur
“ with us in seeing the necessity of a speedy Conven-
“ tion for the purpose of obtaining, in a constitutional
“ and legal method, a redress of those grievances under
“ which we at present labour.”

Now, in the first place, with respect to the words
“ constitutional and legal method,” these persons have
not much to claim upon the score of the effect and force
of the words “ *constitutional and legal method*,” which
appear, through all their transactions of the years 1792
and 1793, and more particularly through the transac-
tions of 1793, as they apply to the British Convention,
in Scotland, to be thought consistent with the existence
of a Convention of such a character as that had ; and,
if it was their purpose to have a Convention of the
people, by summonses to affiliated societies, that Con-
vention to take upon itself the power of the people, it
is in vain that they talk of legal and constitutional
methods : it is in vain, if the thing they mean to do,
and the manner of doing it, is not legal or constitu-
tional.—Upon this letter, I apprehend, after what has

passed, there can be no doubt what is meant by a Convention: but it is not left there: for in the third resolution they state, that “there ought to be immediately a *Convention of the People* by delegates”—mark the words—“deputed for that purpose from the different societies of the friends of freedom, assembled in the various parts of this nation.”

Then here is a Convention of the same character, of the same name, and the same constitution, as that mentioned in the resolution of the 29th of January 1794. Now, to whom is this proposed? It is proposed to that Constitutional Society, which had adopted the address of the 20th of January 1794, and which had also said, by approving that address, that they were of opinion that redress was not to be obtained by the laws of England, but that they were to have redress against their oppressors, plunderers, and enemies, by their own laws—by that sort of *representation of the people*, which is formed by a Convention of the People, summoned from those associated societies. Then what follows upon it?—though the thing is couched in phrases that are a little ambiguous, yet no human being, judging honestly, can doubt the meaning of it; it is, that there shall be this Convention, to act as a Convention of the people, with the power of the people, having all civil and political authority. The Prisoner is sufficiently involved already, if such a Convention never had been thought of; but then the two Societies form a Committee of Correspondence and Co-operation for the purpose of bringing together that Convention, which they had said was the only mean, by which Britons

could enjoy their liberties, or protect themselves against the legitimate government of the country, including in it their plunderers, enemies, and oppressors.

Gentlemen, when I lay this evidence before you, if I stopped here, I should be glad to learn why this is not a step taken for the execution of such a purpose as I have before stated—a step taken for constituting a body, or a step taken towards devising the means of constituting a body which was, like the Convention mentioned in the speech of Barrère, to supersede the Legislature, to depose the King, to suffer him to have no existence, but what their good will and pleasure would allow him, against the will, as the language of the Indictment states it, and in defiance of the authority of the Parliament—to depose the King—for, if these people have the sovereign power, and they must have the sovereign power upon their own principles—the King of England cannot have it in the manner in which it is vested in him now. He was bound to resist such a project as this: he owed it to every good subject in his country to resist it—he was sworn to do it by the solemn obligations of his coronation oath—you cannot therefore contemplate a case of his acting otherwise—the King, being bound to resistance for the security of the subject, and for the sake of observing his oath, for the sake of continuing to reign according to the terms of that oath, according to the statutes agreed upon in Parliament assembled, and the laws and customs of the same.

But, Gentlemen, I do not stop here: you will find also that there was a meeting at Chalk Farm, the

particulars of which I will not state further than to say, that when they are read, you will see that that meeting at Chalk Farm was a step taken in the further prosecution of the functions of that Committee of Co-operation—that it was a measure taken for the express purpose of trying the temper of the people, of seeing what they could do by numbers. That meeting was held in April 1794, and it is very remarkable, that it appears there were meetings in other parts of this kingdom; more particularly it appears from a letter, found in the possession of this Prisoner, that, as there was a meeting in the open air at Chalk Farm, so there were meetings elsewhere—it required vigilance—it required the interposition of some strong hand, by Parliament or otherwise, to preserve you in the situation in which you now are: if it be the will of these persons that you shall not remain in it, it is at least the duty of those, who are to watch over the country as long as it can exist, that it shall not be destroyed by any fault of theirs; but you will find there were meetings in the open air at Leeds, Wakefield, Huddersfield, Bradford, Birstal, and at various other places. This project of a Convention had been communicated to many parts of the country, and too many of them had assented to it; not only assented to it, but it will be proved, that the Prisoner sent a circular letter to the remotest parts of this kingdom (which I will now read), for the purpose of assembling this Convention, for the purpose of carrying into effect the project of this British Convention, the body of which had been dissipated, but which was still carrying on its

purposes by measures precisely the same as those which had existed in this part of the island.

You will find that the Prisoner writes this circular letter to all those societies ; and the addressing this circular letter to all the societies, shows that the Convention that was to be called was not to be a Convention of the people at large, but a convention of delegates summoned from these societies, to usurp the character of "*a Convention of the People.*"—"The critical moment is arrived"—mark the difference of language : in 1793 *the time is not yet come, men are not virtuous or courageous enough ; in 1792, they expected nothing from Parliament ; in 1793, they expected every thing from the societies in due time, and now they assert that the due time is come, that the fulness of the time is come*—"the critical moment is arrived, and Britons must either assert with zeal and firmness their claims to liberty, or yield without resistance to the chains that ministerial usurpation is forging for them. Will you co-operate with us in the only peaceable measure"—a very peaceable measure a Convention of this sort !—"that now presents itself with any prospect of success ? We need not intimate to you, that, notwithstanding the unparalleled audacity of a corrupt and overbearing faction"—now this corrupt and overbearing faction is the King, Lords, and Commons of Great Britain—"which at present tramples on the rights and liberties of the people ; our meetings cannot in England be interrupted without the previous adoption of a Convention Bill." A Convention Bill !—this shows the

reason for their resolutions in Scotland about permanent sittings, and the meeting of another British Convention, and for their language, which they held upon the 20th of January 1794 ; “ a measure it is our duty “ to anticipate ”—mark these words—“ our duty to “ anticipate, that the ties of union may be more firmly “ drawn, and the sentiments and views of the different “ societies *throughout the nation* be compared.”—What was their object in this circular letter ? If, when the British Convention in Edinburgh sat, there had been a motion for a Convention bill in the Parliament of Great Britain, why, their object was then, we perceive, that of being ready at an hour’s warning ; communicating in all parts of the kingdom to their delegates that solemn resolution, which had been made in the British Convention upon the 6th of November ; they were instantly, before the project of such a bill could in Parliament ripen out of notice of a motion into a bill once read, to be assembled in Edinburgh to prevent any such bill passing ; they solemnly vowed to each other, hand in hand, and standing up, to give the greater solemnity to the declaration, “ that the “ moment such a bill as that was introduced into Parliament, they would resist it at the hazard of their “ lives.” Then what did they mean in this circular letter ?—they meant that, while as yet the bare expectation of a Convention bill might exist, while, as yet, no notice of such a motion was given or heard of in Parliament — that it was their duty to anticipate what Parliament might possibly think of. How to anticipate it ?—to anticipate it by means of a Conven-

tion assuming the character of a British Convention of the People, but delegated from these societies, to sit not at Edinburgh, but to sit at a place, as you will find, which they durst not name, and for the purpose of conducting this project with more security, as you find by this letter, to sit at a place that was to be kept secret, in order that the purpose might not be disappointed. "A measure," they proceed, speaking of a Convention Bill, "it is our duty to anticipate, that "the ties of union may be more firmly drawn, and "the sentiments and views of the different societies "throughout the nation be compared, while it is yet "in our power, so as to guide and direct the future "operations of the friends of freedom. Rouse then "to one exertion more, and let us show our consciousness of this important truth; if we are to be beaten "down with threats, prosecutions, and illegal sentences, we are unworthy, we are incapable of liberty; "*we must, however, be expeditious*; Hessians and Austrians"—here is the idea that came from Scotland again—"are already among us, and if we tamely submit, "a cloud of these armed barbarians may shortly be "poured in upon us."

The introduction of sick men into this country for the humane purpose of giving them that air, which they could not obtain while on board a ship, is made the pretext of this letter for stating that "Hessians "and Austrians are already among us, and if we "tamely submit, a cloud of these armed barbarians "may be poured in upon us. *Let us form then another "British Convention.*" What was that Convention?

they expressly state it to be a *Convention of the people*, and a Convention, which is to assume controlling powers over the Legislature. “We have a central situation in our view, which we believe would be most convenient for the whole island, but which we forbear to mention (entreating your confidence in this particular) till we have the answer of”—whom?—“of the societies, with which we are in correspondence.” What, is that a Convention of the People? or of the societies assuming the character of a Convention of the people? “Let us have your answer then.” Now, give me leave to observe, how nearly this project was to being carried into effect—“Let us have your answer then by the 20th at farthest, earlier if possible, whether you approve of the measure, and how many delegates you can send, with the number, also, if possible, of your societies.”

Gentlemen, this will be proved to you to have travelled as far as Strathaven, to have been received there, and delegates to have been appointed in consequence of the solicitation; and then, as in the British Convention, in the month of November 1793, this great project of calling together a body, which was to put an end finally to the existence of Parliament, was to be conducted by a Secret Committee; because its operations, its assembling, and the means which were to be taken for it, could not be committed to numbers, a Secret Committee was then appointed. This letter ends—“for the management of this business we have appointed a Secret Committee: you will judge how far it is necessary for you to do the same.”

Gentlemen, the next proceedings were at Chalk Farm. In these proceedings, it appears, they have stated to the Society called "The Friends of the People," this measure of a Convention; that measure the Friends of the People refused to agree in. You will find that, refusing to agree in that measure, at the meeting at Chalk Farm, when it was stated that the Society of the Friends of the People would not agree in it—indeed, agree in it they could not—you will find what was the reception, which the communication of that information met with—an universal groan from a large body of men, amounting, I believe, to a couple of thousand there assembled.

Gentlemen, this Committee of Correspondence and Co-operation, you will find, met; you will find that there is in the hand-writing of the Prisoner, in a very short note, an account of what was done when they met; that one of the first steps towards the accomplishment of their purposes, was a communication of the correspondences of the country societies to those who were to be the delegates of the Constitutional Society; but the meeting was broke up by the apprehension of the Prisoner and others, which has led, as I before stated, to this prosecution.

Gentlemen, I have before told you that I conceived it was competent for me, as indeed I apprehend without question it is, after proving the conspiracy, to show the conduct of the persons, who were parties in that conspiracy, in furtherance of the conspiracy, when it is proved. You will find that one of the persons who attended the meeting of the 20th of January

1794, and who was a very active member of the London Corresponding Society, and likewise one of the Committee of Correspondence and Co-operation, which I have alluded to as the final act of this business, gives himself this account of the transactions of the 20th of January 1794, and of other circumstances : this is Mr. Thelwall.

“ It is with infinite satisfaction that at last I received
“ a letter from you ; it was brought this morning by
“ Citizen Lee, and has been delayed, I understand,
“ this fortnight at Rotherhithe by some accident.

“ I am too well acquainted with mankind to be surprised, too much of a philosopher to be angry at the
“ abuse and misrepresentation of mistaken men ; but I
“ shall endeavour, as I wish to preserve the good opinion of a man whom I remember with esteem, to
“ send you such printed documents as will prove to
“ you, that, instead of having deserted the cause of
“ liberty, I have redoubled my zeal, and that there is
“ not at this time in England a man that goes bolder
“ lengths, and exposes himself to more danger, in the
“ cause of liberty, than myself. I have been for four
“ or five months past almost the sole labourer upon
“ whom the fatigue, the danger, and the exertions of the
“ London Corresponding Societies, the only avowed
“ Sans Culottes in the metropolis, have rested ; and have
“ been otherwise so active in the cause, as scarcely to
“ have passed a week without threats and conspiracies
“ from the Government and its purblind adherents.
“ Ever since the famous or infamous, call it which you
“ will, proclamation of November 1792, I have been fre-

“ quenting all public meetings where any thing could
 “ be done or expected, have been urging and stimulat-
 “ ing high and low, and endeavouring to rally and
 “ encourage the friends of freedom. I have been con-
 “ stantly sacrificing interest and security, offending
 “ every personally advantageous connexion, till Minis-
 “ terialists, Oppositionists, and Moderees, hate me with
 “ equal cordiality, and, if I may judge by their con-
 “ duct, fear me as much as they hate.

“ For these four months I have been giving politi-
 “ cal lectures and printing, and appropriating the
 “ whole receipts, till the last fortnight, to the support
 “ of our delegates to the British Convention; for the
 “ history of which I must refer you to Citizen Talbot,
 “ whom I have not seen, but whom I hope to see before
 “ he leaves England.”

He then gives an account of the meetings I have been stating to you, and of his lectures: then he says,

“ Adieu. I will collect together what political papers
 “ I can, to send to you when I can find leisure. Do
 “ write to me; let me know something about the state
 “ of politics and society in America. I fear you are
 “ somewhat short of the true Sans Culotte liberty;
 “ that you have too much veneration for property, too
 “ much religion, and too much law.”

“ I fear you are somewhat short of the true Sans
 “ Culotte liberty.” Now, that is, that you have too
 much veneration for property, too much religion, and
 too much law.

Gentlemen, having now gone through the written evidence, I am to state to you some other circumstances.

I have not indeed stated all the written evidence, because you will have written evidence laid before you of stimulations, under singular pretexts, to these societies, to arm themselves. You will find, for instance, that if a debate happened in that Parliament, where they meant hereafter to suffer no debate, about the Hessians and Hanoverians, they circulated among them papers, and it will be brought home to those with respect to whom it is stated, to this effect—"The
" Ins tell us we are in danger of invasion from the
" French ; the Outs tell us that we are in danger from
" the Hessians and Hanoverians : in either case, we
" should arm ourselves. Get arms, and learn how to
" use them."

You will likewise find, upon this part of the case, that, after the dispersion of the British Convention in Edinburgh, after it was seen that the law of this country was strong enough to beat down a conspiracy of that kind, acting by their mere naked numbers, that it became then, in their opinion, necessary to the accomplishment of their purpose, to act with arms.

Now, Gentlemen, where a general conspiracy of this sort, among affiliated societies, existed in Scotland, Sheffield, Norwich, Manchester, and various parts of the kingdom, all aiming at the same end, all acting upon the same principle, all involved in the same project of having a Convention from the different parts of the united kingdoms, it is natural that they should think of arms : but, if the conspiracy did not exist, it would seem a very odd thing that it should happen in fact, that, in these different parts of the kingdom, in

Scotland, in Sheffield, and in London, we should find persons preparing arms of a sort, and of a denomination, which of late years we have not heard of in this country, except as existing in France, and except as stated in a letter from France, which I have read to you.

But, Gentlemen, you will find, from the evidence I have to offer, and indeed it is not surprising that you should so find—after I shall tell you, that in the pocket of one of the parties in this conspiracy, and distributed also in divisions in the London Corresponding Society, were papers, importing that upon the 1st of April 1794, was to be performed, “The Guillotine, “or George’s Head in a Basket;” papers in which the sacred person of the King is so spoken of, and in which all orders of men, under ludicrous representations of them to their country, were doomed to lamp-irons, and to suspension; after I shall tell you that I am instructed that Mr. Thelwall could, when retiring from Chalk Farm, take a pot of porter in his hand, with a knife take off the head, and say, “Thus I would serve “all Kings;” if you should find such language used, I am persuaded you will not be surprised to find pikes in the hands of these men, and their associates—to find muskets in the hands of these men and their associates. Do not, Gentlemen, let us be misled by the great doctrine of the Bill of Rights, that every man has a right to arms for his own protection—he has without question a right to convenient arms for his own defence; but the point before a Jury will be, for what purpose had he the arms? If he attempts to say, that he had them for his own defence—if he had them in fact for a worse

purpose, the attempt to colour the fact makes the fact more criminal.

Gentlemen of the Jury, you will find that Mr. Yorke, in the month of November 1793, will be proved to have been at one of the divisions of the London Corresponding Society, stating, that he was going among the sons of liberty into Belgium, to bring into this country the true sons of liberty. You will find that he was a member of the London Corresponding Society, and constituted a delegate of the Constitutional Society to Scotland; that he has been propagating at Sheffield the same doctrine, as his brother associates were propagating in London; that he was there directing the form in which pikes should be made, to persons who were to make *such* instruments; that the persons at Sheffield enter into a correspondence with the Prisoner at the bar; that they inform him that these pikes are made; that he delivers the direction to persons of the Corresponding Society, in order that they may furnish themselves with these instruments; and that they were to be furnished from Sheffield to a place here, I think, the Parrot, in Green Arbour Alley, or some other place in this town; and that, if the apprehension of these persons here, and at Sheffield, had not put an end to the further execution of the project, there would have been a large importation of these pikes into this part of the kingdom.

Gentlemen, you will find that this idea of arms was carried further; you will find that, for the use of this Society, a plate with figures, showing the manner of learning the military exercise, was engraved by a Mr.

Worship, a member of this Society. You will find that there was a military Society in Lambeth, and another in Turnstile, Holborn; they were small in their beginnings, I admit; but these things must be so in their beginnings; and you will find, that the Prisoner at the bar gave to a witness of the name of Edwards, a direction of whom to obtain pikes at Sheffield. Mr. Williams, another witness, who will be called to you, who is a gun-engraver in the Tower, made muskets for the use of these societies in Lambeth, and in Turnstile, with an express protest that he should not be employed, unless he himself became a member of the societies. You will find accordingly that he did become a member of them. You will find that they drilled at particular places. Gentlemen, I give you this outline of this part of the evidence, because I do not wish to enter more into the particulars, than to give you a general impression of the nature of the case which I have to lay before you.

You will likewise see, what is natural enough to happen, when you find in the book of the Society for Constitutional Information, that Mr. Horne Tooke could think of giving notice, that he would move “that two books should be opened, one of them (bound “in black) in which should be entered all the enormities of those who deserve the censure; and in the “other, the merits of those who deserve the gratitude “of the Society.” You will not be surprised, if you should find persons in these affiliated societies, of lower descriptions, holding conversations about seizing the most august persons in the nation; if you should hear

of their holding conversations about the situation of persons in the House of Commons, and the means by which they could know their persons.

Upon the whole, Gentlemen of the Jury, I shall now lay the testimony before you, submitting this written evidence to you, calling witnesses, above all exception, to a great part of the case; calling some witnesses, whom I now avow to you, you will find, were persons employed by Government to watch over the proceedings of these Societies, and who therefore became informed, in consequence of such employment, of some of their transactions; and Government would have been wanting to itself, and would have been wanting to a degree of criminality, which no man can describe, if this country had at this moment been in the state in which it would have been, if these pikes had been brought into actual exertion.

At Sheffield, indeed, I am told they had got to the length of forming iron instruments, which were to disable horse, which they called night-cats, and which would immediately insert themselves into the hoofs of horses' feet. I say, if, with these projects going on in the country, a Secretary of State, or any other person in the executive government, had hesitated a moment to procure information, these parties might have been able to put into execution the projects they were meditating, and he would have been answerable for it.

Gentlemen, it is the great province of a British Jury, and God forbid these Prisoners should not have the benefit of the reflection, that British Juries are able to protect us all—are able to sift the characters of wit-

nesses—to determine what credit is due to them—listening to men of good character without any impression against their evidence—listening to men, such as I have stated, with a strong impression against their evidence; that impression, however, to be beat down by the concurrent unsuspicious testimony arising out of the rest of the case, if, upon the whole, you should find the case to be made out as I have stated it to you.

Gentlemen, I forgot to mention to you, that you will likewise find, about the time that this Convention was talked of, that there was a new constitution framed for the Corresponding Society, in which they speak of a royalist as an enemy to the liberties of his country—of a democrat, as a friend to the liberties of his country; and you will find, that, in a constitution again revised, the whole was thrown into a scheme, and into a system, which was to add physical strength to the purposes of that Convention, which was, I submit to you, to assume all civil and political authority.

If you find all these things, and, if under the direction of that wisdom that presides here, with respect to which, Gentlemen, let me say again, that the situation of this country is indeed reduced to a most miserable one, if the respect which is due to the administration of the law, is suffered to be weakened in any manner, if the respect which is due to the administration of the law, that administration, which perhaps is the best feature of the constitution under which we live, is destroyed, miserable indeed must be the situation of your country! If you find under that direction that the case, being proved in fact, is also made out in law,

you will do that on behalf of the public which is due to yourselves, to the public, to your posterity, and theirs.

But, on the other hand, if, after hearing this case fully stated, and attempted to be fully proved, you should be of opinion that it is not proved, or you should be finally of opinion that the offence is not made out, according to the *hallowed* interpretation of the statute of Edward III.; I say, then, in the conclusion, I join, from my heart, in the prayer which the law makes on behalf of the Prisoner, God send the Prisoner a safe deliverance !

END OF VOL. II.

and it is the duty of the jury to find the truth, and to return a verdict accordingly.

But on the other hand, it is also true that the jury should not be influenced by any passion or prejudice, and should only decide on the facts and the law as presented to them. It is the duty of the jury to find the truth, and to return a verdict accordingly.

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Erskine, Thomas,

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